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Steve Larsen, Director
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

RE: Comments on November 2011 CMS guidance on State Consumer Assistance Program Participation in Exchange Core Area 10

Dear Director Larsen;

Community Catalyst respectfully submits the following comments to the Center for Consumer Information and Insurance Oversight (CCIIO) in response to the guidance released in November 2011 on State Consumer Assistance Program Participation in Exchange Core Area 10.

Community Catalyst is a national non-profit advocacy organization dedicated to quality, affordable health care for all. Since 1997, Community Catalyst has been working to build the consumer and community leadership required to transform the American health system. With the belief that this transformation will happen when consumers are fully engaged and have an organized voice, Community Catalyst works in partnership with national, state and local consumer organizations, policymakers, and foundations, providing leadership and support to change the health care system so it serves everyone – especially vulnerable members of society.

Community Catalyst works closely with consumer health advocates in more than 40 states around the country, all of whom are dedicated to the successful implementation of the health care reforms in the Affordable Care Act (ACA). We know from working with these partners that successful implementation hinges on ensuring individuals and their families have information about new programs, as well as help to enroll in and navigate the health care system as reforms are implemented. Consumer assistance is critical to providing one-on-one help to educate individuals about their health care options, to facilitate enrollment, maintain coverage, and troubleshoot problems that may arise.

We were pleased that CCIIO recognized the importance of consumer assistance in the January 20, 2011 Exchange Establishment Grant Announcement. This funding opportunity announcement states, “Building sufficient capacity for providing assistance to State residents

is a core activity of Exchange planning and establishment. For these reasons, a State must ensure robust capacity for providing such assistance for all of its residents and must ensure that the Exchange reinforces and strengthens this assistance capacity”.¹

We would like to take this opportunity to identify three areas of concern about the recent guidance and suggest ways to improve it moving forward.

First, we are concerned that the November 2011 guidance unnecessarily limits the use of Exchange grant funding to only consumer assistance “directly related to the planning and implementation of an Exchange.” Because consumer assistance must be tied to an Exchange, until Exchanges are up and running in states, the guidance seems to state that only *preparation* for consumer assistance activities may be funded. While we realize that legal and budgetary constraints may limit CCIIO’s ability to fund consumer assistance activities through Exchange grants, we are concerned that this very narrow interpretation of allowable consumer assistance activities will adversely impact enrollment in programs in the ACA.

In order to be prepared for an Exchange open enrollment period in October 2013, it is critical for consumer assistance to be up, running and well-advertised as early as possible. Therefore, states should be able to not only design, but field test consumer assistance programs prior to that date. For example, enrollment in the state health reform in Massachusetts spiked in the first months of the program. Consumer assistance providers like Health Care for All’s Helpline had been operating for years and were well-equipped to handle the four-fold increase in calls for assistance.

In addition, the consumer assistance programs (CAPs) that currently operate in a number of states are already piloting successful models and provide a strong foundation to leverage in assisting people with coverage through the Exchange. While we understand that Exchange grants may not fully fund existing CAPs, if certain consumer assistance activities are being carried out now within CAPS that can help test and improve future Exchange functions. We believe these are valid activities to be funded by Exchange grants.

Second, we urge CCIIO to loosen restrictions on certain consumer assistance activities. Consumer assistance should include the ability to help people enroll in Medicaid and all public programs. Given the ACA’s commitment to “the seamless coordination process required for enrollment in Medicaid and the Exchange,”² it is critical that any consumer assistance system be knowledgeable about helping people access and enroll in programs beyond Exchange plans. We all understand consumers may not know which program they are eligible for, and that many people who contact the Exchange for assistance may in fact be eligible for Medicaid.

¹ U.S. Department of Health and Human Services. Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges. January 20, 2011. P.48.

² Proposed Regulations, Establishment of Exchanges and Qualified Health Plans, CFR 45 CFR Parts 155 and 156, Preamble.

In addition, we are concerned that the prohibition on appeals and grievances may be overly broad and may be read to preclude assisting individuals who need help contesting incorrect eligibility determinations for coverage. We believe that representing individuals on appeals of adverse determinations is a core consumer assistance function within Exchanges and we urge CCIIO to permit Exchange funds to be used to assist individuals with eligibility determinations.

Finally, we are concerned that the narrow interpretation of funding for consumer assistance work could lead some states to not apportion any Exchange grant funds for this critical component of health reform. For this reason, we urge CCIIO to work proactively with states as they apply for Exchange grants to encourage funding for Core Area 10, and ensure states are adequately prepared to run consumer assistance activities.

As an example, an advocate at the Missouri Health Advocacy Alliance partnered with the state to draft language for the Exchange grant to fund consumer assistance activities. She then heard from a state contractor working on the grant that HHS had new guidance that does not allow the Exchange grants to support consumer assistance. The coordinator of ACA implementation for Missouri said that CCIIO at first asked the state to include consumer assistance activities in its Exchange establishment grant application, then came back and asked them to take it out, which reduced the overall Exchange grant. This incident occurred prior to the November guidance. However, we are concerned that the guidance will further states' trepidation about using Exchange funds for *any* consumer assistance activities, and urge CCIIO to inform states that this is not the case.

We recognize CCIIO's difficult position in ensuring that grant funds are used correctly to help set up Exchanges. But we urge CCIIO to consider the need for consumer assistance, and allow the Exchange grants to fund a wider array of services for people who will eventually come to the Exchange seeking assistance. With millions of people newly seeking coverage, it will be critically important to provide real help for real people on the ground, feedback to state and federal agencies, and information that empowers people to make good health care decisions for themselves and their families. We welcome continuing to work with you to develop strategies to make consumer assistance successful as an integral part of ACA implementation.

Respectfully submitted,



Robert Restuccia
Executive Director
Community Catalyst