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June 24, 2009

VIA ELECTRONIC MAIL

Representative Henry A. Waxman, Chairman
United States House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Re: Comments on *The House Tri-Committee Discussion Draft on Health Care Reform*

Dear Chairman Waxman:

We applaud your hard work and dedication in designing a plan that would greatly expand access to quality affordable health care. The House Tri-Committee Discussion Draft bill would make extremely positive contributions to the health of all Americans.

The bill contains too many significant advances to enumerate in one letter. However, we would like to especially thank you for your continued support for a public insurance option, vigorous oversight of the private insurance industry, strong affordability protections, and employer responsibility for contributing to health care costs. We are also very pleased with the bill's delivery system reforms that include a focus on primary care; workforce development initiatives, especially those encouraging diversity; and expansion of public health and prevention activities to reduce racial and ethnic health disparities. Finally, we strongly support the provisions that require pharmaceutical companies and medical device manufactures to report payments to prescribers.

We would like to call to your attention to four areas where we believe the bill could be strengthened, specifically: ensuring that people are not required to pay more for coverage than they can afford, tapping experienced community-based groups to help support consumers, ensuring better access for legally present immigrants, and enhancing Special Needs Plans.

Affordability

We applaud the Tri-Committee for offering subsidies to individuals up to 400 percent of the Federal Poverty Level (FPL), for placing caps on out-of-pocket costs for all plans, and for setting lower cost-sharing and out-of-pocket limits for people with lower incomes. In addition, we recommend the Tri-Committee:

- **Exempt low-income people from premiums:** As currently written, this draft requires everyone to pay at least 1 percent of their income towards premiums, and requires a higher contribution from those above 133 percent FPL. This contribution level will be unaffordable for families below 200 percent FPL, who often go into debt just to pay for basic necessities such as housing, food and childcare. At a minimum, everyone below 150 percent FPL should be exempted.

- **Exempt people from the individual mandate if they cannot find affordable coverage.** As currently drafted, the bill would offer no affordability protections for those who earn too much to qualify for subsidies. Under the current structure, individuals above 400 percent FPL would be required to buy coverage no matter how high the cost, unless they are eligible for a “hardship waiver.” Community Catalyst urges the House Tri-Committee to develop an “affordability standard,” defined as a sliding-scale percentage of income, which would exempt those who cannot find comprehensive affordable coverage.

Consumer Support

We strongly support the creation of the Qualified Health Benefits Plan Ombudsman to document consumers’ complaints and to help consumers gain access to health care. We recommend that the functions of this office be located within non-profit, community-based organizations in states. In addition, community-based organizations should play a central role in the outreach to and enrollment of individuals in the Exchange and Medicaid programs.

The population most in need of consumer assistance is likely to be currently uninsured and disconnected from public agencies. Organizations with experience working with health consumers, the uninsured and underinsured have demonstrated both a commitment and an ability to provide that consumer assistance through programs such as the Health Care For All Massachusetts help-line and the Covering Kids and Families initiative.

We have attached to this letter suggested language that would support non-profit consumer organizations in assuming this role as health care reform is implemented.

Health Equity

We are pleased with the emphasis the Tri-Committee bill places on reducing racial and ethnic disparities and on increasing linguistic and cultural competency. Our increasingly diverse nation will be stronger if our health care system provides greater equity in access and care. We recommend that the Tri-Committee take three additional steps to ensure better access for legally present immigrants and for Americans from all backgrounds:

- Eliminate the five-year waiting period for legally present immigrants to qualify for Medicaid
- Provide funding for language assistance in all public insurance programs
- Require providers to meet all 14 standards for Culturally and Linguistically Appropriate Services as set out by the United States Office of Minority Health

In addition, because even the Tri-Committee's comprehensive reform proposal will leave some people without affordable coverage, we recommend the inclusion of provisions that require hospitals to identify and respond to the unmet health needs of the communities they serve as a condition for Disproportionate Share Hospital payments and tax-exempt status. Hospitals are an essential part of the safety net in many communities and can play a stronger role in others.

Special Needs Plans

We strongly support the bill language that would reform the Special Needs Plan (SNP) program, particularly the designation of fully integrated, dually eligible SNPs (FIDESNPs) and the creation of an office within the Centers for Medicare & Medicaid Services (CMS) to encourage better coordination between Medicare and Medicaid. FIDESNPs hold the promise of improving the quality of care for the dually eligible, some of the sickest and frailest beneficiaries who otherwise experience uncoordinated and fragmented care in the fee-for-service system. FIDESNPs also may help stabilize the Medicare and Medicaid costs of caring for dually eligible beneficiaries *if* there is integration of benefits and services.

To ensure FIDESNPs remain a viable option and dually eligible beneficiaries have access to integrated care, we recommend the Tri-Committee:

- **Refine the risk adjustment system to adequately reimburse FIDESNPs:** An increasing number of studies show that the current risk adjustment system does not adequately account for severity of high-risk beneficiaries' chronic conditions, the multiplicity of conditions and any resulting frailty. This results in overpaying MA plans serving healthier patients and underpaying plans serving patients with the most complex needs. We recommend the Tri-Committee require a thorough evaluation of the risk adjustment system for high-risk Medicare beneficiaries, including the use of a frailty adjuster, and require changes based on the results.
- **Exempt FIDESNPs from the Medicare Advantage bidding system:** Currently, to provide Medicare Parts A and B to enrollees, SNPs must submit an annual bid to CMS which comports with the processes designed for Medicare Advantage (MA) plans. Plans whose bids are over the benchmark set for MA plans must either pass along the extra costs to their enrollees or accept the lower reimbursement, neither of which are options for the unique FIDESNP population. We recommend the Tri-Committee exempt FIDESNPs from the MA competitive bidding system. Alternatively, the Tri-Committee might consider creating separate bid pools for all SNPs.

Once again, we thank you for your leadership in moving the nation toward quality affordable health care for all. We hope that you will receive these suggestions as constructive contributions to your deliberations.

Sincerely,



Robert Restuccia
Executive Director