



November 7, 2021

The Honorable Xavier Becerra  
 Secretary  
 U.S. Department of Health and Human Services  
 200 Independence Avenue, SW  
 Washington, DC 20201

Attn: Strategic Plan Comments

Dear Secretary Becerra:

Thank you for the opportunity to submit comments on the Department of Health and Human Services (“HHS”) Strategic Plan for Fiscal Years 2022-2026.

Our organizations represent millions of patients and consumers facing serious, acute and chronic health conditions across the country. Our organizations have a unique perspective on what patients need to prevent disease, cure illness, and manage chronic health conditions. Our diversity enables us to draw upon a wealth of knowledge and expertise that can be an invaluable resource in this discussion.

In March of 2017, our organizations agreed upon three overarching principles<sup>1</sup> to guide any work to reform and improve the nation’s healthcare system. These principles state that: (1) healthcare should be accessible, meaning that coverage should be easy to understand and not pose a barrier to care; (2) healthcare should be affordable, enabling patients to access the treatments they need to live healthy and productive lives; and (3) healthcare must be adequate, meaning healthcare coverage should cover treatments patients need, including all the services in the essential health benefit (EHB) package.

<sup>1</sup> Healthcare Reform Principles. Available at: <https://www.lung.org/getmedia/24309f63-74e9-4670-8014-d59f21104cfd/092021-ppc-healthcare-principles-42-logos-final.pdf>.

We recognize and appreciate the concrete steps this Administration has already taken, through executive action and in collaboration with Congress, to improve and safeguard the accessibility, affordability, and quality of care for the patients and consumers we represent. As HHS moves forward with the 2022-2026 Strategic Plan, we provide the following comments:

**Goal #1: Protect and strengthen equitable access to high quality and affordable health care**

**Objective 1.1: Increase choice, affordability, and enrollment in high-quality healthcare coverage**

To achieve this objective, HHS will need to address financial and administrative barriers to care in Medicaid and Affordable Care Act (ACA) coverage, as well as address the proliferation of non-ACA compliant plans.

Medicaid plays a critical role in providing robust coverage to low-income children, adults, seniors and people with disabilities. In one of his first executive orders on healthcare, President Biden directed HHS to re-examine “demonstrations and waivers under Medicaid and the ACA that may reduce coverage or undermine the programs, including work requirements.”<sup>2</sup> We appreciate the steps the Centers for Medicare and Medicaid Services (CMS) have already taken to withdraw relevant guidance as well as revoke approvals of work and community engagement requirements in almost a dozen states. Additionally, our organizations urge HHS to revoke or reject additional Section 1115 waivers that include barriers to care such as block grants, premiums and other excessive cost sharing, limitations on benefits like Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services and non-emergency medical transportation (NEMT), and elimination of retroactive coverage. These barriers jeopardize patients’ equitable access to care by adding needless complexity to an essential program. We urge you to consider a specific reference to ending demonstrations and waivers that reduce coverage and undermine the Medicaid program in the final strategic plan.

The second strategy under this objective focuses on “empowering consumers with choices for high quality coverage.” Our organizations agree that choice for consumers is important but want to highlight the importance of guaranteeing that all of those choices constitute *high quality coverage*. Our organizations have been gravely concerned with the growth of health plans that do not comply with the patient protections in the ACA, including short-term plans, association health plans and healthcare sharing ministries. In many cases, these plans are marketed to consumers who don’t fully understand what they are purchasing. In March 2021, we issued a report with specific recommendations for the Administration to protect consumers from these products.<sup>3</sup> We urge HHS to include a specific strategy around limiting non-ACA-compliant health plans in the final strategic plan.

The second strategy also references the importance of improving transparency of health coverage options for consumers. As part of implementing this strategy, our organizations urge HHS to make additional improvements to Healthcare.gov that would benefit consumers and facilitate enrollment for health plans. For example, we suggest that HHS work to improve the accessibility of information about Marketplace plan costs, formularies, provider networks, and other features so all consumers including those with diverse health literacy, cultural, and socioeconomic backgrounds can better understand their enrollment options. We note, however, that improving the transparency of this information is not a

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<sup>2</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/28/fact-sheet-president-biden-to-sign-executive-orders-strengthening-americans-access-to-quality-affordable-health-care/>.

<sup>3</sup> <https://ils.org/advocate/under-covered-how-insurance-products-are-leaving-patients-exposed>.

substitute for additional actions to reduce deductibles, out-of-pocket costs, and other cost-sharing associated with marketplace coverage.

Our organizations appreciate the inclusion of language to “promote partnerships and collaborations with states to provide and monitor equitable and timely access to Medicaid and Children's Health Insurance Program (CHIP) providers and services.” Our organizations have previously filed comments on rulemaking related to this issue<sup>4</sup> and look forward to providing feedback on future activity in this area. Additionally, we encourage you to broaden this strategy to also improve monitoring of network adequacy in ACA marketplace plans. We were pleased that HHS announced its intention to restore federal network adequacy standards for plans offered through the federally facilitated marketplace and federal oversight of marketplace plan networks for the 2023 plan year, and we look forward to commenting on those forthcoming proposals. As part of these efforts, we urge you evaluate qualified health plan provider networks on their ability to provide culturally- and linguistically-competent care as well as care accessible to people with disabilities.<sup>5</sup>

Our organizations strongly support the focus throughout the strategic plan on improving outreach and enrollment activities to connect consumers with quality and affordable coverage. We appreciate the steps this Administration has already taken to extend the open enrollment period for ACA marketplace plans, increase funding for Navigator services, and invest in other outreach and enrollment activities including those specifically targeted to children through CHIP funding. Studies have shown the success of consumer assistance in getting people enrolled in coverage,<sup>6</sup> and as recently as 2019, a significant share of the population was unaware that the ACA provided subsidies for coverage and expanded Medicaid.<sup>7</sup>

As you continue to build on these investments in the coming years, our organizations urge you to prioritize investments that can reduce disparities in coverage. Thirty million U.S. residents lacked health insurance in 2020 and disparities among uninsured remain, with most non-white groups more likely to be uninsured than whites.<sup>8</sup> Of the 10.9 million people currently eligible for ACA marketplace coverage subsidies but unenrolled, 30 percent are Hispanic, 59 percent have a high school diploma or less, 42

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<sup>4</sup> Health Partners Letter to Administrator Verma re: Methods for Assuring Access to Covered Medicaid Services – Rescission. September 13, 2019. Available at: <https://www.lung.org/getmedia/a9980bec-06d6-44ea-a0a1-302752f1cbec/health-partner-comments-to-8.pdf.pdf>.

<sup>5</sup> For additional information, see PPC Letter to Secretary Yellen, Secretary Becerra and Administrator Brooks-LaSure re: Patient Protection and Affordable Care Act; Updating Payment Parameters, Section 1332 Waiver Implementing Regulations, and Improving Health Insurance Markets for 2022 and Beyond Proposed Rule. July 28, 2021. Available at: <https://www.lung.org/getmedia/248ed176-6d01-4768-a9b7-23b636d913d1/health-partner-comments-re-2022-nbpb-part-3-final-with-attachments.pdf>.

<sup>6</sup> Karen Pollitz et al. “[Consumer Assistance in Health Insurance: Evidence of Impact and Unmet Need](#),” Kaiser Family Foundation, Aug. 7, 2020; Karen Pollitz et al, “[2016 Survey of Health Insurance Marketplace Assister Programs and Brokers](#),” Kaiser Family Foundation, Jun. 8, 2016.

<sup>7</sup> Mollyann Brodie et al., “[The Past, Present and Possible Future of Public Opinion on the ACA](#),” Health Affairs, Feb. 19, 2020.

<sup>8</sup> Kenneth Finegold et al., [Trends in the U.S. Uninsured Population, 2010-2020](#), U.S. Department of Health & Human Services’ Office of the Assistant Secretary for Planning & Evaluation (ASPE), Feb. 11, 2021.

percent are young adults, 16 percent live in rural areas, and 11 percent do not have internet access at home.<sup>9</sup> Latino and Native American children have the highest uninsured rates.<sup>10</sup>

Once individuals have coverage, they still need assistance navigating that coverage, including appealing, resolving and tracking insurance disputes. To that end, we urge you to support robust funding for consumer assistance programs to make these critical resources available to patients and consumers in each territory, state and DC. In addition, we strongly encourage HHS to work with other Departments and undertake a broad, well-funded education campaign to notify consumers of their new rights under the No Surprises Act. The federal law will extend comprehensive protections for the first time in the states without their own surprise billing laws and to the nearly 135 million people in self-insured plans. Investing in consumer education will help guarantee the law is implemented and enforced as Congress intended.

Another critical component of efforts to increase health coverage enrollment will be promoting continuity of coverage in the Medicaid program. Continuous eligibility reduces gaps in coverage that prevent patients from accessing the care that they need. For example, research has shown that individuals with partial coverage during a year are more likely to delay care, receive less preventive care, refill prescriptions less often, and have more emergency department visits.<sup>11</sup> Many of our organizations recently wrote to you to share our support for continuous eligibility and to urge you to work with states to encourage them to use section 1115 waivers to expand continuous eligibility in their Medicaid programs.<sup>12</sup> Additionally, our organizations appreciate the updates that CMS made to its guidance to states regarding the resumption of routine state Medicaid operations at the end of the COVID-19 public health emergency, and we have reached out to states to share our recommendations for how to ensure patients who remain eligible for Medicaid coverage maintain their access to care.

### **Objective 1.2: Reduce costs, improve quality of healthcare services, and ensure access to safe medical devices and drugs**

We share HHS's goal to reduce health care costs and appreciate that HHS did not make references to incentivizing individual healthy behavior as a means to addressing rising health care costs.

Many states have adopted (or attempted to adopt) programs in Medicaid that are designed to "incentivize" healthy behaviors among beneficiaries. We have strongly objected to these programs, most recently in responding to an Arkansas Health and Opportunity for Me (ARHOME) 1115 waiver application.<sup>13</sup> The use of high-cost sharing, utilization management, and other barriers is sometimes discussed as a means of giving patients "skin in the game" to reduce their utilization of care. However, research has shown that high cost-sharing reduces access to all care, including essential services,

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<sup>9</sup> Daniel McDermott and Cynthia Cox, [A Closer Look at the Uninsured Marketplace Eligible Population Following the American Rescue Plan Act](#), KFF, May 27, 2021.

<sup>10</sup> Alker, J and A. Corcoran. "[Children's Uninsured Rate Rises by Largest Annual Jump in More than A Decade](#)" Georgetown University Center for Children and Families, October, 2020.

<sup>11</sup> <https://aspe.hhs.gov/sites/default/files/private/pdf/265366/medicaid-churning-ib.pdf>.

<sup>12</sup> PPC Letter to Secretary Becerra re: Continuous Eligibility Waivers. October 19, 2021. Available at: [https://www.lung.org/getmedia/456a5ca0-bf4a-4e00-9581-919e22baa0a7/health-partner-mt-continuous-eligibility-letter-\(final\).pdf](https://www.lung.org/getmedia/456a5ca0-bf4a-4e00-9581-919e22baa0a7/health-partner-mt-continuous-eligibility-letter-(final).pdf).

<sup>13</sup> PPC Letter to Secretary Becerra re: Arkansas Health and Opportunity for Me 1115 Waiver. October 19, 2021. Available at: [https://www.lung.org/getmedia/962d3bb6-9ccd-40eb-a950-e49bf1891fee/health-partner-comments-arkansas-1115-\(final\).pdf](https://www.lung.org/getmedia/962d3bb6-9ccd-40eb-a950-e49bf1891fee/health-partner-comments-arkansas-1115-(final).pdf).

screenings, and even vaccinations.<sup>14</sup> This is especially true for lower-income populations that are very sensitive to cost. For the people with chronic conditions that we represent, reducing the use of health care services is simply not an option. Instead, high cost sharing and other utilization management simply create a barrier to receiving the health care they need.

For similar reasons, we have been concerned about the use of “wellness programs” that include financial incentives.<sup>15</sup> In addition to being ineffective at improving health, such programs discriminate against people with existing chronic conditions and disabilities and may make coverage or care unaffordable for the very people who need care. We appreciate that HHS did not include language in the strategic plan about incentivizing individual healthy behavior through financial or coverage losses. Instead of threats to lose care or money, people with chronic conditions need access to health care and care supports in order to be as healthy as possible.

We support HHS’ goal to research the expanded use and availability of telehealth. We support HHS continuing to collect data on the uses and outcomes of telehealth, including data which can be used to measure access and outcomes across different demographic groups. As policymaking regarding telehealth moves forward, we urge HHS to incorporate the telehealth principles that many of our organizations created.<sup>16</sup> We are particularly concerned about reports<sup>17</sup> that some health plans are starting to implement plans that require telehealth before a patient can receive an in-person visit. The use of telehealth should be determined by the preferences of the patient and clinical judgement of the provider; simply seeking in- person care should not be subject to utilization management practices like these or greater cost-sharing.

**Objective 1.3: Expand equitable access to comprehensive, community-based, innovative, and culturally-competent healthcare services while addressing social determinants of health**

Our organizations strongly support HHS’s attention to health equity. As we focus on coverage and access to care, we particularly support the strategies to remove barriers to care and coverage for patients who experience challenges due to underlying social determinants, which in turn lead to disparities in health outcomes. In July, many of our organizations responded to the Office of Management and Budget Request for Information regarding equity and underserved communities.<sup>18</sup> We support HHS’ efforts to collect and disaggregate data to understand how policies impact communities differently and create inequalities in coverage and care. We also urge HHS to analyze proposed policies for their impacts on health equity, especially in the Medicaid program.

We also appreciate HHS’s attention to social determinants of health. Similar to our approach regarding healthy behavior “incentives” addressed in section 1.2, we have been concerned with policies that seek to address a social determinant of health – such as employment status – by removing or reducing coverage for people who cannot prove they have met a certain metric in that area – such as number of hours worked.<sup>19</sup> We urge HHS to continue its opposition to such policies.

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<sup>14</sup> [https://www.rand.org/content/dam/rand/pubs/research\\_briefs/2012/RAND\\_RB9672.pdf](https://www.rand.org/content/dam/rand/pubs/research_briefs/2012/RAND_RB9672.pdf)

<sup>15</sup> <https://www.lung.org/getmedia/ab55431c-ba85-493a-8a1f-644b7b3f2828/partners-letter-to-hhs-re.pdf.pdf>

<sup>16</sup> <https://www.epilepsy.com/sites/core/files/atoms/files/PPC%20Telehealth%20Principles.pdf>

<sup>17</sup> <https://khn.org/news/article/virtual-first-insurance-plans-telemedicine/>

<sup>18</sup> [https://www.lung.org/getmedia/7804d1ce-5cd5-4518-8fed-d7a532889fc8/ppc-omb-rfi-comments-\(final\).pdf](https://www.lung.org/getmedia/7804d1ce-5cd5-4518-8fed-d7a532889fc8/ppc-omb-rfi-comments-(final).pdf)

<sup>19</sup> <https://www.lung.org/getmedia/5c47aca8-15b1-40bc-ad3a-e67b2d6d210e/ppc-letter-to-transition-team,-supreme-court-and-work-requirements.pdf>

As a part of this strategy, we also urge HHS to reinstate and improve the regulations implementing nondiscrimination provisions of Section 1557 of the Affordable Care Act.<sup>20</sup> We particularly support reinstating protections against discriminatory benefit design and ensuring that the scope of the protection extends to all products offered by insurers who receive federal financial assistance. Such actions will help reduce discrimination in health care coverage and the health disparities that stem, in part, from this discrimination.

**Conclusion**

We are ready to work on efforts that improve coverage and care for the millions of patients and people with pre-existing conditions. If you have any questions, or would like to discuss any of the priorities listed above further, please direct your staff to contact Theresa Alban of the Cystic Fibrosis Foundation at [talban@cff.org](mailto:talban@cff.org). Thank you for your consideration.

Sincerely,

Alpha-1 Foundation  
ALS Association  
American Cancer Society Cancer Action Network  
American Heart Association  
American Kidney Fund  
American Liver Foundation  
American Lung Association  
Arthritis Foundation  
Asthma and Allergy Foundation of America  
Cancer Support Community  
Cystic Fibrosis Foundation  
Epilepsy Foundation  
Family Voices  
Hemophilia Federation of America  
Immune Deficiency Foundation  
March of Dimes  
Mended Little Hearts  
Muscular Dystrophy Association  
National Alliance on Mental Illness  
National Eczema Association  
National Health Council  
National Hemophilia Foundation  
National Kidney Foundation  
National MS Society  
National Organization for Rare Disorders  
National Patient Advocate Foundation  
Susan G. Komen  
The AIDS Institute  
The Leukemia & Lymphoma Society  
United Way Worldwide  
WomenHeart: The National Coalition for Women with Heart Disease

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<sup>20</sup> <https://www.lung.org/media/press-releases/policy-encourages-healthcare-discrimination>