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Community Service Society of New York ☯ Empire Justice Center
Institute for Puerto Rican and Hispanic Elderly ☯ Make The Road New York
Medicare Rights Center ☯ Metro New York Health Care for All Campaign
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Public Policy and Education Fund of New York/Citizen Action of New York ☯ Raising Women's Voices
Schuyler Center for Analysis and Advocacy

March 27, 2013

VIA ELECTRONIC SUBMISSION: exchange@health.state.ny.us AND FIRST CLASS MAIL

Danielle Holahan
Deputy Director
New York Health Benefits Exchange
90 Church Street
New York, NY 10007

Re: Comments on Exchange Health Disparities Report

Dear Ms. Holahan:

Health Care for All New York (HCFANY) submits these comments on a report prepared for the New York State Health Benefits Exchange (“New York Exchange” or “Exchange”) on the reduction of health disparities, prepared by the Center for Popular Democracy (“Exchange Disparities Report,” or “Report”).¹ HCFANY is a statewide coalition of over 150 organizations which seek to achieve affordable, quality health care for all New Yorkers. We thank you for the opportunity to provide our comments on this important report.

HCFANY commends the Exchange for its ongoing examination of many issues in regard to health disparities and the Center for Popular Democracy (CPD) for airing some of the most critical topics in its report. After a brief comment on the process of addressing health disparities issues in the future, we will address a few topics that we believe require further consideration by the Exchange.

I. Introduction and Process Issues

HCFANY commends the CPD for its accurate summary of the recommendations of stakeholders and its detailed discussion of language access issues. This report is an important first step,

¹ Center for Popular Democracy, New York State Health Benefit Exchange: Reducing Health Disparities (January 21, 2013); available at: <http://www.healthbenefitexchange.ny.gov/resource/new-york-health-benefit-exchange-reducing-health-disparities>.

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but the process must not end here. The State needs to reach policy conclusions, set concrete goals, and settle upon a practical mechanism for reaching those goals.

HCFANY urges the State to develop a “transparent and public process as it establishes standards for reducing health disparities through the Exchange and health plans offered on the Exchange,”² including (a) discussing disparities topics at Regional Advisory Committees at every meeting; and (b) the establishing a regular stakeholder group focused on disparities to advise the Exchange. In the meantime, the plan invitation and contracting process offer an immediate opportunity to set standards for the plans and provide clear descriptions of enforcement mechanisms for those standards. Exchange documents currently under development likely offer similar opportunities for creating implementation mechanisms for the Exchange. We have provided further details on suggested standards and other strategies for reducing disparities below.

II. Consumer Assistance Functions

1. Facilitating Language Access and Communication Assistance

HCFANY has two comments in the area of language access and communication assistance. First, we laud and wholeheartedly agree with the CPD’s recommendation to “require insurers to adhere to the same language accessibility guidelines as the Exchange.”³ However, we note that the State’s “Invitation to Participate in the New York Health Benefit Exchange” (the “plan invitation”) uses a slightly different standard and that the State’s proposed standard model contract documents do not strongly elucidate a language standard. Accordingly, we urge the State to robustly adopt the CPD’s language standard in all Exchange documents.

Second, we support the concept advanced in the Report of a “Language Access Unit” within DOH to create and implement language access and communication assistance policies.⁴ To strengthen this recommendation, we urge the State to establish an Office of Civil Rights within the Counsel’s Office of the Exchange. This unit should have responsibilities that go beyond language and communications to ensure compliance with all aspects of Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and other civil rights laws. It could serve as the ADA coordinator of the Exchange and receive complaints and grievances as required by federal law.⁵ California’s Department of Social Services and Arizona’s Department of Economic Security have such offices and the Human Resources Administration in New York City and other local social service departments in New York State have ADA compliance officers.

² See HCFANY, Letter to Danielle Holahan, Re: Comments on Addressing Disparities in the Health Benefit Exchange (October 5, 2012), at 1; available at <http://hcfany.files.wordpress.com/2010/01/hcfany-comments-on-disparities-in-nys-exchange-10-5-12.pdf> (hereinafter, “HCFANY Comments”).

³ Exchange Disparities Report., at 8.

⁴*Id.*, at 7.

⁵ 28 CFR 35.107 (a) and b); 45 CFR 847 (a) and (b).



2. Providing Decision-Making Support Tools Through the Call Center and the Website

The Report notes that panelist Dr. Paula Johnson recommended at the September 7th disparities stakeholder meeting that the Exchange’s call center and website actively guide and assist consumers, rather than providing information passively.⁶ We agree with Dr. Johnson, but also note that this is no substitute for the kind of in person assistance that would be provided by community-based organizations (CBOs) that are trusted by community members. HCFANY and other stakeholders have previously pointed out the importance of the availability of in-person assistance for consumers, especially those unable or unwilling to use personal computers, the Internet and even telephones. We therefore encourage the Exchange to ensure that significant numbers of community and consumer-focused nonprofit organizations are selected to participate in the In-Person Assistor/Navigator program that will shortly be created by the Exchange, and that the CBOs selected represent varying regions of the state and the diverse communities residing in these areas.

3. Using Diverse Channels for Consumer Outreach

We commend the CPD for acknowledging in the Report the significant support among commenters that the Exchange pursue “diverse channels” of consumer outreach, including ethnic and local press. Other locations suggested in the Report are also worthy of pursuing, including but not limited to community health centers, schools, unemployment centers and health fairs. It is our understanding that the Exchange will release an outreach plan in the coming weeks which will be made available for public comment before it is finalized. Once the outreach plan is released, we will likely have additional recommendations to offer on the Exchange’s proposed methods of outreach.

However, at this time, we wanted to emphasize the importance of using as many outreach methods as possible that are particularly effective in reaching traditionally excluded communities, including low-income people, people with disabilities, immigrants and people of color. The categorical prohibition in the In-Person Assistor/Navigator invitation of door-to-door “solicitations” at the homes of prospective enrollees by navigators suggests to us the Exchange is highly skeptical about such activities⁷ – understandable given the instances of marketing abuses by health plans in New York and other states. However, as representatives of New York State CBOs, we know of the enormous value of going to the homes of prospective enrollees of “hard to reach” populations, including low-income people, the homebound elderly, disabled people and others who simply do not attend community events.⁸ The value of door-to-door outreach is also documented in the literature for a number of different purposes, including generating increases in the uptake of families claiming the Earned Income

⁶ Exchange Disparities Report, at 9.

⁷ New York State Department of Health, Office of Health Insurance Programs, Health Benefit Exchange, Request for Applications: Consumer Assistance for the New York State Health Benefit Exchange: In Person Assistors and Navigators (RFA Number 1301300317; Released February 13, 2013), at 15.

⁸ It is not even clear that the Exchange will permit navigators to distribute *informational materials* door-to-door, even without enrolling consumers; at a minimum, this should be clarified by the Exchange.



Tax Credit and mobilizing citizens to vote.⁹ “Cold-calling” (contacting parties that the caller does not have a prior relationship with) -- also prohibited for navigators -- is also potentially valuable for reaching “hard to reach” populations for educational purposes, including informing consumers of their right to purchase health coverage through the Exchange. We therefore recommend that the State’s outreach plan not only include funding for door-to-door canvassing (including by community groups) to provide truthful and non-deceptive information about health care plans, and that if restrictions are placed on “cold-calling,” that this prohibition be narrowly defined.¹⁰

4. Conducting Sensitivity Training for Consumer Assistance

We support the emphasis in the report as to the need for the Exchange to be sensitive to the needs of the diverse consumers that will access the Exchange.¹¹ Towards this end, HCFANY recommends that consumer assistors as well as Exchange and plan personnel receive training to help them be more sensitive to the needs and concerns of New York’s diverse consumers. Experts have found that members of traditionally excluded groups, such as people of color, the LGBT community, and people with disabilities may not seek care or enroll in health plans due to a number of factors, including past experiences that have created mistrust of the health system. Cultural and disability competency training could help Exchange and provider staff be more effective. We urge the Exchange to regularly consult with organizations that serve and represent traditionally excluded groups when developing and evaluating the efficacy of this training. Sensitivity training requirements should be incorporated in the plan invitation and other relevant Exchange documents.

III. Network Adequacy

HCFANY commends CPD for including our recommendations that health plans be required to: 1) have sufficient numbers of reproductive health care providers; 2) meet the accessibility needs of the communities they serve; and 3) eliminate out-of-network costs if an enrollee is unable to find a health care provider in network due to an inadequate number of providers. However, we are disappointed that the Report did not include our recommendation that the Exchange ensure that plan networks include providers who are clinically competent to serve the LGBT community.¹² The Exchange should also ensure that plan networks include providers competent to serve communities of color, immigrant and limited English proficient communities, and those with special needs.

⁹ See ACORN’s Accelerated Income Redistribution Project: A Program Evaluation, Research on Social Work Practice 2006 16: 369. (The online version is available at: <http://www.sagepub.com/isw6/articles/ch11brooks.pdf>).

¹⁰ We are assuming that under the Navigator RFA, a navigator/CBO could call anyone with any type of a prior relationship with the group -- not just someone who is a formal member -- including individuals who, for example: 1) previously received services; 2) attended an educational event; or 3) signed a petition (in the case of a CBO that engages in political action). Even with this broad definition, a CBO presumably *couldn’t* call through affiliated CBOs’ lists -- a potential major impediment to educating hard to reach communities.

¹¹ Exchange Disparities Report, at 9.

¹² See HCFANY Comments, at 5.



IV. Data Collection and Dissemination

We commend the CPD for including the recommendation of HCFANY and others that a system be developed to collect data in regard to a number of factors, including race, ethnicity, gender, primary language, sexual orientation, gender identity and disability status. We note that the report cited “New York’s commitment to the collection of data related to . . . sexual orientation and gender expression.” We strongly support the inclusion of gender *identity* in this list, as well as sexual orientation and disability status.

We have already provided extensive comments to the Exchange on this subject which we will not reiterate here.¹³ In essence, we are concerned that the Report failed to make sufficiently clear that a central focus of the data collection system in place for the Exchange and the plans should be measuring health disparities. As we have commented previously, the coverage and health outcomes of New Yorkers must be reported by each of the demographics cited above as related to health disparities (race, ethnicity, language, gender, gender identity, sexual orientation and disability status). The State’s existing quality assurance reporting requirements (QARR) system currently gathers critical outcome data and can be used as the foundation for a more comprehensive system of collecting and reporting data on disparities.

Finally, it is critical that the information on health disparities be put to good use, enabling the State to make progress toward clearly identified goals. At a minimum: (1) the information must be made publicly available in a clear format (including on the web) to enable consumers to make informed health care choices on that basis; and (2) the information should provide a basis for measuring individual health plan progress toward reducing disparities. In our view, a system of accountability for progress toward reducing disparities should be a priority of the Exchange once an effective data collection system has been established and shown to be workable.

Thank you once again for considering our comments. If you have any questions, please contact me at bcohen@citizenactionny.org or at (518) 465-4600 x104.

Very truly yours,

Bob Cohen, Esq.
Policy Director, Citizen Action of New York
On Behalf of HCFANY and the HCFANY Disparities Task Force

¹³ See HCFANY Comments, at 8-9 for a more detailed discussion of our proposals in the area of data collection. Also, as noted in our comments, legislation drafted by HCFANY in the 2011-12 legislative session (A.8278, Peoples-Stokes) can serve as a starting point for the development of a detailed proposal on data collection in regard to health disparities in the state.