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September 29, 2015

HHS Secretary Sylvia Mathews Burwell
200 Independence Avenue, S.W.
Washington, D.C. 20201

[Submitted electronically to FFecomments@cms.hhs.gov]

RE: New York 2017 Benchmark Plan for Essential Health Benefits

Dear Secretary Burwell:

Health Care for All New York (HCFANY) submits these comments on New York's selection of Oxford Health Insurance, Inc. - Oxford EPO plan as its Essential Health Benefits (EHB) benchmark plan for use in the individual and small group insurance markets in 2017 and beyond. HCFANY is a statewide coalition of over 170 organizations seeking to achieve affordable, quality health care for all New Yorkers. We thank you for the opportunity to provide our brief comments on this critical decision for New Yorkers.

New York's extraordinary success in enrolling over 2.1 million New Yorkers in coverage during its first two years, 88 percent of whom were uninsured at the time they enrolled, increases the importance of this decision. New Yorkers, their families, and small businesses across the state rely on the plans available through the individual and small business marketplaces to provide options for comprehensive coverage. A comprehensive benefit plan is particularly important in New York's individual marketplace, where only 11 out of 62 counties have plans which offer out-of-network coverage. As such, the benchmark plan should meet the needs of New York's diverse consumers, including consumers with chronic illnesses and high medical needs.

During the comment period that New York State of Health (NYSOH) offered to consumers, HCFANY recommended that NYSOH choose the New York State Employee Plans' Empire Plan as the benchmark option for EHB in New York. HCFANY continues to



recommend that the Empire Plan be selected as the benchmark plan for New York's EHB. This plan provides comprehensive coverage to New York's hard-working public employees. New Yorkers purchasing coverage through the NYSOH should have the option of purchasing this high-quality coverage as well.

Moreover, the Empire Plan is the only benchmark plan choice in New York State that uses medical necessity as the limit for services including home health care, Physical Therapy, Occupational Therapy, Speech Therapy, chiropractic care, acupuncture visits, skilled nursing facility care and hospice care. HCFANY urges HHS to approve plans like the Empire Plan with a standard of medical necessity, rather than allowing arbitrary benefit caps. In doing so, HHS will prevent discriminatory benefit designs that harm New Yorkers' health and wellbeing.

HCFANY also recommends that the US Department of Health and Human Services (HHS) reconsider its decision to bar states from including adult dental and vision care in an EHB benchmark plan. Federal regulation 45 CFR 156.115 states that a plan may not include routine non-pediatric dental services, routine non-pediatric eye exam services, long-term/custodial nursing home care benefits, and/or cosmetic orthodontia as EHB benefits. Adults who rely on the health plans offered through New York's individual marketplace have trouble accessing these vital healthcare services, which are prohibitively expensive when paying out of pocket. We urge HHS to remove the provision prohibiting these services as EHB benefits. The regulations should not designate categories of benefits to be removed from a selected benchmark plan.

Thank you for considering our comments. If you have any questions, please contact Hannah Lupien at hlupien@cssny.org or (212)614-5541.

Sincerely,

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