CCWH

California Coalition for Whole Health

August 10, 2012

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SUBJECT: Invitation to Provide Public Comment – Qualified Health Plan Policies and Strategies to Improve Care, Prevention and Affordability – Discussion Draft: Options and Recommendations

The California Coalition for Whole Health (CCWH) is a diverse group of behavioral health stakeholders concerned with informing the implementation of the Patient Protection and Affordable Care Act (ACA) to appropriately address mental health and substance use disorder treatment needs. CCWH hopes to serve as an important resource to the California Health Benefit Exchange Board as you move forward in developing qualified health plan policies.

The ACA presents an unprecedented opportunity to expand coverage to tens of millions of Americans, and to ensure that coverage, both in the public and private markets, includes essential benefits. Of note to the mental health and substance use disorder community, the ACA explicitly includes mental health and substance use disorder services, including behavioral health treatment, as one of ten categories of service that must be covered as essential health benefits. Furthermore, the ACA mandates that mental health and substance use disorder benchmark coverage be provided at parity with other medical and surgical benefits offered by the health plan, pursuant to the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA 2008). In order to ensure that essential, medically necessary mental health and substance use disorder services are accessible to consumers in a timely fashion, and that parity and equity standards are appropriately met, CCWH has focused its comments on plan regulation and oversight and provider network adequacy.

<u>Plan Regulation and Oversight</u>
CCWH strongly encourages the Exchange to develop a comprehensive oversight plan to ensure compliance with mental health and substance use disorder parity and equity laws. CCWH has noted that too often consumers are denied access to, or are misinformed about, their mental health and substance use disorder benefits, which can hinder them from receiving necessary services in a timely manner. Vague medical necessity standards often lead to an unequal application of medical necessity to mental health and substance use disorder treatment. Other variables such as construction of pharmacy formularies, payment of providers and utilization review policies can further impede access to timely care for those beneficiaries in need of mental health and substance use disorder services. Further, lack of timely access to appropriate, medically necessary mental health and substance use disorder services can cause conditions to worsen, and lead to costly emergency and inpatient care.

The MHPAEA of 2008, and the subsequent Interim Final Rule (2010), explicitly prohibit health plans from imposing such "non-quantitative" limitations on mental health and substance use disorder services. However, without strong oversight, such limitations are often left unaddressed. Too often the burden of ensuring parity compliance has been with the consumer (i.e. grievances, lawsuits), whereas it should be a clear plan responsibility to comply with federal and state laws. CCWH has noted longstanding challenges with state regulation in the area of parity compliance – particularly related to the capacity of the Department of Managed Health Care and Department of Insurance to adequately monitor behavioral health "carve-out" organizations and investigate consumer complaints. There have been particular challenges related to enforcement of federal parity laws where consumers may find themselves shuffled between state and federal regulators to pursue a complaint.

Specifically, CCWH suggests the Exchange consider the following:

1) Require publically reportable parity compliance audits.

2) Make publically available aggregated performance and complaints data.

3) Require medical necessity criteria and Evidence of Coverage criteria to be publically posted and easily accessible to consumers.

4) Require that complaint processes be consistent, easily accessible and have a clear timeframe and appeal process.

<u>Provider Network Access: Adequacy Standards</u>
Mental health and substance use disorder provider networks for many plans have historically been inadequate. This is due to general shortages (particularly outside urban centers), low reimbursement rates (i.e., not at parity with medical/surgical provider rates) and lack of enforcement to ensure that plans make a concerted effort to develop adequate networks (including identifying alternative solutions such as telemedicine). In order to ensure an adequate network to meet the mental health needs of beneficiaries, plans should be required to determine the number of practitioner hours devoted to plan enrollees, the percentage of their practice devoted to plan enrollees and the number of specialty practitioners and their sub-specialties (i.e., psychiatrists who specialize in adolescent care, etc.). It is imperative that a consistent, scientific methodology be utilized across the state in order for plans to determine the adequacy of their network. In situations where there may be an unavoidable provider shortage, the plans should be required to determine the nature and extent of the provider shortage, including available patient capacity of such providers, and measures the plan has taken to achieve timely access in spite of the provider shortage (i.e. telemedicine capacity). If plans do not comply with these adequacy requirements, a corrective plan should be established. Qualified health plans should also make available a telephone number specifically identified for mental health and substance use disorder inquiries. This line should be available to consumers 24 hours a day, seven days a week, and a telephone waiting time to speak with a qualified mental health or substance use disorder professional, acting within his or her scope of practice and trained to screen and triage, should be established.

As discussed earlier in these comments, adequate enforcement is critical to ensuring that consumers truly have timely access to medically necessary services.

Thank you for your continued commitment to and leadership in the development and implementation of California's health benefits marketplace. We welcome the opportunity to

discuss our comments and work collaboratively with the Exchange to further strengthen the Qualified Health Plan policies. Any questions may be referred to ccwh@cimh.org.

Sincerely,

Undersigned representatives of the California Coalition for Whole Health:

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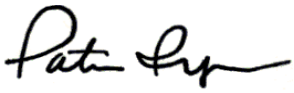

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