



January 15, 2016

Secretary Burwell  
Attention: Draft 2017 Letter to Issuers in the Federally-facilitated Marketplaces  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services

Re: Covered California comments on the Draft 2017 Letter to Issuers in the Federally-facilitated Marketplaces.

Dear Secretary Burwell,

Covered California is submitting comments in response to the Draft 2017 Letter to Issuers in the Federally Facilitated Marketplaces on two important areas; Network Adequacy and Agent Compensation. Covered California has also submitted comments in response to the HHS Notice of Benefit and Payment Parameters for 2017 on the following areas that are related to the Issuer guidance: [FFE user fee](#) and [Standardized Benefits](#).

Covered California makes these comments based on our technical and market experience in operating our own state-based marketplace (SBM), acknowledging that the Letter to Issuers does not apply to California. Additionally, California has no plans or intention to change its structure to become a state-based marketplace on the federal platform. Nonetheless, we want all marketplaces across the nation to be successful and make these comments to contribute to building on the success we have already seen across the nation in the initial launch of federal and state-based marketplaces.

Network Adequacy - Chapter 2, Section 3:

In the state-based marketplace of California, the State regulators are responsible for ensuring network adequacy requirements imposed upon issuers are met, which include consideration of the ratio of providers to enrollees and distance and time to travel. The requirements are specific to California's marketplace considering differences in provider availability in certain geographies and differences in travel that may impact regions that are more rural. Requiring the metrics to be at least as stringent as the FFM standard that is based on Medicare Advantage requirements may result in unintended and more restrictive requirements that are primarily due to differences in the Medicare versus Individual marketplace, both in time and distance, as well as provider specialties. As proposed, working with the states to sufficiently

address state specific variations is important. Allowing states to also adjust for market characteristics that include demographics should also be considered.

Agent Compensation - Chapter 5, Section 4:

In California agents and brokers are a significant enrollment channel for exchange members, comprising as much as 45% of the new membership enrolled during the 2016 open enrollment period and they play an equally important role during the special enrollment period. To prevent potential discrimination by an issuer seeking to avoid adverse risk of a membership population, as well as to ensure all issuers fairly and affirmatively offer and promote enrollment, it is suggested that consideration be made to:

- disallow an issuer to have different agent compensation between special enrollment and open enrollment periods;
- prohibit issuers from not paying agents for enrollment; and
- research the value of potentially setting a minimum commission amount so issuers are contributing at least a similar portion of premium to this important enrollment channel.

These policy considerations are particularly important given the policy requirement that agents inform consumers of all available plans and not just those issuers who pay commissions.

Thank you and please contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter V. Lee".

Peter V. Lee  
Executive Director

CC: Covered California Board of Directors