To sign on, send email to judi@healthpolicyproject.org by 5:00 PM January 31, 2012.

By Utah Health Policy Project and Coalition Partners (*listed on last page*)

January 30, 2012

COMMENTS to the Department of Health and Human Services, Centers for Medicare & Medicaid Services and, Center for Consumer Information and Insurance Oversight

RE: Essential Health Benefits Bulletin, December 16, 2011
http://cciio.cms.gov/resources/files/Files2/12162011/essential_health_benefits_bulletin.pdf

On behalf of Community Partners in Utah, the Utah Health Policy Project respectfully submits the following comments to the Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS), and the Center for Consumer Information and Insurance Oversight (CCIIO) in response to the bulletin regarding Essential Health Benefits (EHB), released December 16, 2011.

The Utah Health Policy Project is a 501-C-3 non-partisan research and advocacy group dedicated to lasting solutions to the crisis of the uninsured and rising health care costs. As the host of U-SHARE (Utahns for Sustainable Health System Reform), we have worked to bring the Utah Health Exchange into line with the new federal standards. Our comments draw on the many lessons from Utah's experience with its own private market reforms organized around the state's mostly unsuccessful exchange.

Though it may not always feel like it because of the presence of Intermountain Health Care and its integrated health care delivery system, study after study has found that Utah actually has a competitive insurance marketplace.[1] But choice in itself, is no guarantee of value or affordability for consumers and small businesses.

Because it will engage Utah's leaders, we generally support the EHB Bulletin's emphasis on state flexibility. However, from the viewpoint of what it will take for the EHB to serve as a gateway to quality, affordable, and cost effective health care coverage, a critical goal of PPACA, we have a few concerns and recommendations to share from our experience.

1. **TRANSPARENCY AND PUBLIC ENGAGEMENT IN EHB SELECTION.** Ensure a transparent EHB selection and evaluation process as a first step. Utah's Exchange has disappointed consumers' and small businesses' expectations in almost every respect.[2] After many years of effort, we can say with confidence that the lack of a transpareny and meaningful stakeholder input process is largely to blame. Federal officials need to spell out what it means to have a meaningful and transparent public input process, or *it just won't happen*.

HHS should outline a set of criteria for states to consider in their selection of an EHB benchmark. These criteria could include plan comprehensiveness, affordability, administrative simplicity, medical evidence, mandate inclusion, and continuity of coverage. **HHS should clearly outline how it will evaluate a state's benchmark and define a rigorous consumer input process in the definition and updating of**

[1] Salt Lake Tribune (October 26, 2011). "Utah Health Insurance Market Defies National Trend." http://www.sltrib.com/sltrib/news/52780424-78/health-market-insurance-insurers.html.csp?page=1
[2] Utah Health Policy Project (2011). The State of the Utah Health Exchange. http://www.healthpolicyproject.org/Publications_files/State/TheStateOfUHEDashboard.pdf.

essential health benefits. HHS could also establish robust data collection requirements for states and carriers to ensure that evaluation of the EHB is reliable and accurate.

The EHB package should be reviewed regularly to meet changing demands, medical evidence, and advances in medical care. There should be HHS power to add new health innovations that may not be cost neutral up front but will produce health care savings in the long run.

2. **MAKE MEANINGFUL BENCHMARK DATA PUBLICLY AVAILABLE.** When we learned that Regence BlueCross BlueShield ("Regence Innova" product) offers all three of the largest small group products on the Utah market, we had no idea what this really means for consumers and small businesses or what the implications might be in terms of scope of benefits or affordability. A quick search on HealthScape, Utah's new gateway to cost and quality information, told us only that Regence has 25% market share, has wellness programs, is offered on the Utah Health Exchange, and offers discounts—to what we don't know.[3]

   To help states decide which plan to use in an open and transparent process, HHS should provide meaningful information and comparison tools in accessible and understandable formats.

3. **LIMIT INSURER FLEXIBILITY WITHIN AND ACROSS THE 10 REQUIRED BENEFIT PACKAGE CATEGORIES.** The HHS Bulletin is proposing to allow insurers to substitute *within and across* the 10 required benefit package categories to promote insurer innovation and meet the needs of consumers. In states like Utah that prefer to go light on the regulations, this is a blank check for cherry picking—we need better safeguards and alignment with evidence-based standards for what should be include within the EHB. Insurers could easily substitute a service in one benefit category for a service in another benefit category – perhaps veering away from services for ongoing chronic care.

   If HHS allows substitution of actuarially equivalent services *within* the 10 categories, there should also be a transparent process for monitoring these substitutions, enabling consumers to understand how the substitutions impact their health coverage.

Respectfully submitted,

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On behalf of the following Utah partner organizations

[3] HealthInsight (2012). Utah HealthScape. http://utahhealthscape.org.