ABHW
Association for Behavioral Health and Wellness
Advancing benefits and services in mental health, substance use and behavior change.

December 22, 2014

The Honorable Sylvia Mathews Burwell
Secretary of the U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

RE: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016

Dear Secretary Burwell:

The Association for Behavioral Health and Wellness (ABHW) appreciates this opportunity to provide comment on the Notice of Proposed Rulemaking (NPRM) on Benefit and Payment Parameters for 2016.

ABHW is an association of the nation's leading behavioral health and wellness companies. These companies provide an array of services related to mental health, substance use, employee assistance, disease management, and other health and wellness programs to approximately 125 million people in both the public and private sectors. ABHW and its member companies use their behavioral health expertise to improve health care outcomes for individuals and families across the health care spectrum.

Our comments will focus on the provisions relating to essential health benefits (EHBs), particularly the definition of habilitative services and network adequacy standards.

The NPRM proposes a definition for "habilitative/habilitation services" as "health care services that help you keep, learn, or improve skills and functioning for daily living", while defining "rehabilitative/rehabilitation services" as "health care services that help you keep, get back, or improve skills and functioning for daily living that have been lost or impaired…". We find it problematic to include the terms "keep" and "improve" within the definition of habilitative because those words refer to the maintenance of function; whereas, habilitative services are meant to help a patient learn new skills that he or she never had. Inserting the terms "keep" and "improve" suggests rehabilitation, meant to recreate a function the patient once had, thus clinically and operationally blurring the definitions between the two benefits.

Rehabilitative and habilitative therapies are inherently overlapping, as both are primarily physical, speech, occupational, and cognitive therapy services. However, in one scenario patients are receiving rehabilitative services, such as speech therapy, because they lost some function after a stroke. In another scenario, patients are receiving habilitative services, such as speech therapy, because they have Autism and have not yet learned to speak. As you can see, the definitions of these services intertwine, making it difficult to effectively administer two distinct

benefits. For purposes of the benefit package, we request clearer and more distinct definitions that distinguish between habilitative and rehabilitative. We suggest that habilitative clearly focus on learning new skills and rehabilitative focus on keeping or improving skills that the patient once had. If rehabilitative and habilitative are going to remain two separate categories, we need two separate definitions so we can clearly determine who is eligible for which service.

Additionally, the term "health care services" in your definition is quite broad and opens the door to varying interpretations. The scope of health care services that are considered habilitative are rather narrow. Instead of using the vague term "health care services" we suggest naming the specific services: physical, speech, occupational, or cognitive therapy.

Regarding the network adequacy standards proposed in the NPRM, the proposed rule states that provider directories need to be updated once a month. In order to avoid the high administrative cost and burden that would accompany this requirement, and to ensure issuers' ability to access the appropriate information, we recommend replacing your language with NCQA's standard. NCQA requires the organization to update the practitioner directory within 30 calendar days of receiving new information from a practitioner. In addition, we request that the proposed rule clarify that the directory only includes providers that are network practitioners.

Thank you for your consideration of these suggested changes to the NPRM on Benefit and Payment Parameters for 2016. If you have any questions or would like to discuss any of these issues with ABHW, please contact Rebecca Murow Klein at (202) 449-7658 or klein@abhw.org.

Sincerely,

Pamela Greenberg

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President and CEO, ABHW