October 21, 2013

The Honorable Kathleen Sebelius
U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Sebelius:

On behalf of the Children’s Hospital Association, thank you for your leadership and commitment to improving the health and health care of the nation’s children and their families. As key components of the Affordable Care Act (ACA) continue to be implemented, I want to take this opportunity to highlight a few areas where we believe that we can work with you and your staff to better ensure that all children have access to the care they need when they need it.

The more than 220 children’s hospitals that comprise the membership of the Children’s Hospital Association are a mix of large, acute-care institutions, as well as smaller specialty hospitals that treat a unique population of children with special health care needs. Children’s hospitals are a vital safety net for all children, treating uninsured, underinsured and publicly covered children across the country. Although children’s hospitals are less than 5 percent of all hospitals in the U.S., they account for 47 percent of all pediatric Medicaid admissions. Children’s hospitals serve the majority of children with serious illnesses and complex chronic conditions and most children in need of major surgical services. As they deliver these services, children’s hospitals also actively engage with their communities to improve the health of the pediatric population.

The nation’s children’s hospitals saw great promise in the health insurance marketplaces as originally crafted in the ACA. They represented an opportunity to create a national model for children’s health care coverage. Unfortunately, thus far, we believe that implementing regulations have fallen short in meeting the law’s promise of ensuring that children have access to affordable, high quality, and timely care. We believe there are a few key areas, including access to a robust benefit package and provider networks, which must be addressed so children continue to have access to necessary and affordable health care services as ACA implementation moves forward. We are particularly concerned about continued access to Medicaid supplemental coverage for low-income children with disabilities who are covered through the marketplaces.

As you know, under the Internal Revenue Service (IRS) final rule, “Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage,” specific Medicaid eligibility pathways (e.g. the TEFRA/Katie Beckett option, Family Opportunity Act and 1915(c) Home and Community Based Services Waivers) are considered to provide comprehensive Medicaid coverage for children with disabilities. As a result, low-income children with disabilities who have supplemental Medicaid coverage through those pathways will be ineligible for premium tax credits to make their private coverage affordable.
The IRS also intends to issue additional guidance regarding access to premium tax credits for low-income children with disabilities who have supplemental coverage via other Medicaid eligibility pathways (e.g., Section 1115 and Katie Beckett waivers and the medically needy program). We are hopeful that, for this population, access to both supplemental Medicaid coverage and the premium tax credits needed to make private coverage affordable will not be denied.

Low-income children with disabilities are among our most vulnerable. They may have private insurance but turn to Medicaid because they require extensive and expensive health care services and supports not covered by their private insurance plan (e.g., private-duty nursing, certain medical equipment, extensive therapy). Federal and state policies have allowed these children with disabilities to enroll in Medicaid to fill coverage gaps. Medicaid is considered the payer of last resort and supplements the child’s private insurance plan, covering co-pays, deductibles and uncovered health care services.

It is absolutely critical that, as we improve coverage opportunities through the private market, low-income children with disabilities do not lose out on affordable coverage. We ask HHS to work with the IRS to ensure that Medicaid coverage that supplements private coverage is not considered minimum essential coverage for the purposes of determining eligibility for advanced premium tax credits. We also ask that HHS monitor enrollment for children with disabilities in public and private coverage and provide additional guidance to ensure children with disabilities have access to the full range of benefits that meet their unique needs.

We appreciate the opportunity to bring this matter to your attention. We look forward to working with HHS and the IRS to find solutions that will enable all children to have access to affordable and necessary health coverage. We also look forward to continuing our work with you on other critical areas of ACA implementation so that the law will fulfill its promise for the nation’s children.

If we may provide further information or otherwise be of assistance, please contact Aimee Ossman with the Children’s Hospital Association at 703-797-6023 or aimee.ossman@childrenshospitals.org.

Best Regards,

Mark Wietencha
President and CEO
Children’s Hospital Association