Dear Acting Secretary Hargan and Administrator Verma:

We are pleased to submit these comments in response to the Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019 proposed rule, released by the Department of Health and Human Services (Department) on November 2, 2017 at 82 Fed. Reg. 51052 et. seq. As health care providers serving low-income and medically-underserved patients, we deeply understand the health care access and coverage challenges faced by our patient communities. As such, we remain concerned about the proposal to continue the standard that allows Marketplace plans to only include 20 percent of essential community provider (ECP) in their networks. This standard leaves many patients without sufficient access to the providers they need and trust most. We strongly recommend the Department raise the ECP standard to ensure that Marketplace enrollees are able to access timely, high-quality, and affordable primary and specialty care services within their Marketplace networks. Doing so will more closely align the ECP standard with the Department’s stated goal to empower consumers and ensure stronger patient choice of providers.

Congress designed the ECP provision of the Affordable Care Act (ACA) to ensure that consumers purchasing coverage on the Marketplace have guaranteed access to trusted providers, including community health centers, safety net and children’s hospitals, HIV/AIDS clinics, and family planning health centers. When expansions in health insurance coverage are not matched with strong network adequacy protections, Americans are too often left with new coverage options that do not give them strong access to the providers in their communities with the appropriate experience and expertise to meet their medical needs. This access gap is especially common among providers in medically-underserved communities and among providers who care for low-income populations with complex, chronic conditions. Section 1311(c)(1)(C) of the ACA was designed to address this challenge head-on by ensuring that essential community providers are included in qualified health plan networks—thereby assuring continuity of care and timely access to critical health services.

Individuals and families across this country still face enormous access challenges as they try to obtain critical primary and specialty care in their narrow network Marketplace plans. Indeed, the new 20 percent ECP participation standard, implemented under the April 2017 Market Stabilization Rule, undermines low-income and medically-underserved individuals’ access to providers who can meet their core health care needs, including HIV/AIDS care, cancer screenings and treatment, pediatric specialty care, and women’s health services. For example, as reported in The Washington Post this month, a low-income family buying coverage on Virginia’s Marketplace has been unable to find any Marketplace coverage option whose network includes the only local hospital with a pediatric cancer unit that can treat their four-year-old daughter’s aggressive leukemia. This hospital is a designated ECP on the official 2018 list and yet the family cannot use their Marketplace coverage to pay for the care their daughter desperately needs to receive at this hospital. This is just one of the many stories we hear every day about people either having to

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forego essential primary or specialty care entirely or pay out-of-pocket for the care they need most -- in direct contradiction to the intent of the ECP standard.

Given these tremendous access challenges in Marketplace plans, we believe it is imperative that the Department reconsiders its current 20 percent ECP network participation threshold and instead, at a minimum, reinstate the 30 percent inclusion standard. This return to a higher standard will help consumers have affordable and timely access to providers in their communities with the expertise to meet their medical needs. Further, raising the ECP standard aligns with the Department’s stated priority to empower patients and promote consumers’ choice of providers. On balance, reinstating the higher ECP standard in order to restore patient choice and help alleviate potential barriers to care for our most vulnerable patients outweighs any minimal administrative burden on issuers that might result from the higher ECP participation standard.

As low-income families struggle to use their Marketplace coverage to access trusted providers in their communities, it is important that the Department proactively monitor and enforce QHP compliance with the federal ECP standard and partner with state-based Marketplaces to ensure that plans meet the ECP participation standard in their states. In addition, it is important that the 2019 Letter to the Issuers require that plans offer contracts in good faith to at least one ECP in each ECP category. Stronger oversight and enforcement will ensure that families, like those named in the article mentioned above, will have continuity of care with the providers who are best suited to meet their health care needs in line with the clear intent of the ECP provision of the ACA.

In addition, we appreciate the Department’s ongoing commitment to ensuring the ECP list is accurate. As the Department continues its statutory obligation to implement the ECP standard, we encourage the Department to maintain and enhance its existing efforts to regularly engage the essential community provider community so that the Department, payers, and providers can effectively collaborate to ensure that new enrollees get the care they need from the providers they trust and who have the expertise to care for them. In particular, we recommend the Department continue to strengthen its mechanisms to inform providers about the deadline to submit ECP petitions before the annual ECP list is finalized. It is crucial that there is a full and accurate accounting of available ECPs in a service area given their role as key providers of health care for underserved and vulnerable populations. We look forward to continuing to work with the Department in the coming months to improve the database and identify additional communication channels for providers. The undersigned organizations represent Essential Community Providers and can be a conduit for communicating and sharing information with them.

It is imperative that enrollees are able to access critical health care services in a timely manner -- including important primary and specialty care services that ECPs deliver so effectively. As the Department works in the coming months to promote consumer choice of providers and empowering patients, we urge the Department to place a special emphasis on strong essential community provider participation to ensure lower-income, medically-underserved individuals maintain access to the providers available locally who can best meet their medical needs -- in line with both the intent and spirit of this important ACA protection. We look forward to working with you to ensure that all Americans, including historically underserved populations, have access to the health services that they need. If you have any questions, please contact Andrea Weddle at the HIV Medicine Association at aweddle@idsociety.org.

Sincerely,

American Congress of Obstetricians and Gynecologists
America’s Essential Hospitals
Association of Clinicians for the Underserved
Children’s Hospital Association
HIV Medicine Association
National Association of Pediatric Nurse Practitioners
National Family Planning & Reproductive Health Association
Ryan White Medical Providers Coalition