

# National Coalition for LGBT Health

The Honorable Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Re: Comments on HHS Notice of Benefit and Payment Parameters for 2020 Proposed Rule, CMS-9916-P

Dear Administrator Verma:

We, the undersigned LGBTQ, HIV, and hepatitis C virus (HCV) advocacy organizations, representing millions of patients and their families, are pleased to submit comments on the proposed rule, Notice of Benefit and Payment Parameters (NBPP) for 2021.

**We are concerned that the new provisions in the proposed rule will impose an undue cost burden for people with HIV and HCV, and people seeking to protect themselves from new HIV infections using pre-exposure prophylaxis (PrEP). In particular, we are concerned that the 2021 NBPP proposal would reverse CMS' previous policy that required manufacturer coupons to be counted towards patients' annual cost sharing limitation. The new policy would severely limit access to these assistance programs and place the burden of out-of-pocket prescription drug costs on patients. This is a major step in the wrong direction for patients.**

CMS proposes to reverse its previous position in the 2020 NBPP and allow issuers to prohibit counting manufacturer copay assistance for a drug towards the deductible or out-of-pocket maximum based off an incorrectly interpreted IRS notice. We have significant concerns that this reversal puts the burden of high drug list prices on people with HIV and HCV who rely on prescription drugs, and on copay assistance to afford their medications. Additionally, people who are using PrEP also would face significant barriers to affording biomedical prevention services; thus, undermining Ending the HIV Epidemic strategies.

The 2004 IRS notice is being incorrectly interpreted to determine that continuing the 2020 NBPP policy would conflict with requirements for high deductible health plans with health savings accounts. The notice relates to programs that give enrollees access to discounted rates at the pharmacy. This misguided interpretation is likely to encourage health plans to exclude copay assistance coupons from cost sharing.

High deductibles and high cost-sharing for medications expose patients to extraordinary out-of-pocket costs when they pick up their prescriptions at the pharmacy. People with these conditions must have meaningful access to the best medication regimen for them, as prescribed by their medical professional, even when those medications come with a high cost. HIV and HCV can impact each patient differently and similarly, many medications are not interchangeable.

CMS' proposal to allow issuers to not count this assistance for drugs can undermine meaningful access and exacerbate affordability concerns. **HHS should not finalize these proposals and should move forward with enforcing the 2020 NBPP final rule's policy.**

We are pleased that CMS has allowed states the flexibility to prohibit the use of these programs. Many states have become concerned with the use of copay accumulator programs and the impact they have on their patient populations. Arizona, Illinois, Virginia, and West Virginia have all banned the use of these programs and other states are considering similar provisions. Regardless of the efforts of these states, many people across the country will be impacted by this rule, causing a decrease in affordability at the pharmacy and an increase in medication regimen abandonment.

Thank you very much for your consideration of our comments. Should you have any questions, please contact: Michael D. Shankle, MPH, Senior Director of Advocacy and Capacity Building, [michael@healthLGBT.org](mailto:michael@healthLGBT.org), 202.507.4730.

Sincerely,

National Coalition for LGBT Health

37th Ave Pharmacy Inc.  
ADAP Advocacy Association  
AID Upstate  
Allies for Independence  
Allies Linked for the Prevention of HIV and AIDS  
Avita Pharmacy  
BHT Foundation  
Callen-Lorde Community Health Center  
CARES  
Center for Black Equity  
Clark Pediatrics  
Cogent Medical Communications  
COLIBRI  
Community Access National Network  
Damien Ministries  
EHN Pride Program  
Einstein Healthcare Network  
Equality North Carolina  
Equitas Health  
Family Services of Montgomery County  
Frontline Legal Services  
Gay Men's Health Crisis (GMHC)  
HealthHIV  
HIV + Hepatitis Policy Institute  
HIV/AIDS Alliance of Michigan  
House of Blahnik, Inc.  
Hudson Pride Center  
Identity, Inc.  
LGBT Center of Raleigh  
LYRIC Center for LGBTQQ Youth  
Mainspring Counseling  
Mansfield Gay Pride Association

Massachusetts Transgender Political Coalition  
Mercy Health  
Minnesota Ryan White Part B Consumer Advisory Committee  
Multicultural AIDS Coalition  
Navajo Nation  
Pathways to New Connections  
Prisma Health  
Tapestry Health Systems, Inc.  
The LOFT LGBT Community Services Center  
The Normal Anomaly Initiative  
The Pride Center of New Jersey  
The Project of the Quad Cities  
The Rush Center  
The Source LGBT+ Center  
The STI Project  
TransSOCIAL, Inc.  
UNIFIED-HIV Health and Beyond  
Utah AIDS Foundation