



June 8, 2012

Daniel R. Hawkins, Jr.
Senior Vice President
National Association of Community Health Centers
7200 Wisconsin Ave, Suite 210
Bethesda, MD 20814

Dear Mr. Hawkins:

Thank you for your letter regarding the payment issues related to Federally-qualified health centers (FQHCs) by qualified health plans (QHPs) that would operate in State-based Exchanges. We appreciate your thoughts and concerns about this important issue.

As you noted, 45 CFR §156.235(e) of the final rule published on March 27, 2012, *Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers*, states that if an item or service is provided by an FQHC to an enrollee of the QHP, the QHP issuer must pay an amount that is not less than “the amount of payment that would have been paid to the center under §1902(bb) of the Social Security Act (SSA) for services that are covered by the QHP and provided by an FQHC to a covered individual” (Medicaid PPS rate). However, the QHP issuer and the FQHC may mutually agree upon payment rates other than the Medicaid PPS rate. Specifically, the preamble to §156.235(e) indicates that a QHP issuer must pay the relevant Medicaid PPS rate, or may pay a mutually agreed upon rate to the FQHC, provided that such rate is at least equal to the QHP issuer’s generally applicable payment rate.

Therefore, we believe that, consistent with §§ 1302(g), 1311(c)(1)(C), and 1311(c)(2) of the Affordable Care Act, §156.235(e) and the preamble are sufficiently clear in expressing that a QHP issuer must pay an FQHC the relevant Medicaid PPS rate for the items and services that the FQHC provides to a QHP enrollee, if the QHP issuer and the FQHC have not contracted on a mutually agreed upon rate that is at least equal to the QHP issuer’s generally applicable payment rate. This would generally mean that if a QHP issuer does not have a contract with an FQHC, the QHP issuer must pay the FQHC the Medicaid PPS rate for the items and services provided to the QHP enrollee.

Thank you for your ongoing interest in the implementation of the Affordable Care Act, and for taking the time to write about this important issue.

Sincerely,

Timothy Hill, Deputy Director

Center for Consumer Information and Insurance Oversight



NATIONAL ASSOCIATION OF
Community Health Centers

March 27, 2012

Steve Larsen
Centers for Medicare and Medicaid Services (CMS)
Center for Consumer Information and Insurance Oversight (CCIIO)
200 Independence Ave., S.W.
Room 733H-02
Washington, DC 20201

Dear Mr. Larsen:

On behalf of health centers and the 20 million patients that they serve, I am writing to you today to address an important issue regarding health center participation in Qualified Health Plans (QHPs) that can be approved to operate in State Based Exchanges under the final rule on the Establishment of Exchanges and Qualified Health Plans, to be published in the Federal Register on March 27, 2012.

The Affordable Care Act included an important provision for health centers (see Section 10104 (b)(2) of PPACA adding subsection (g) to Section 1302 of PPACA), requiring that if an item or service that is otherwise covered by a QHP is provided at a federally qualified health center (FQHC), the QHP must pay the FQHC at least the amount it would have received under Medicaid (as defined in Section 1902(bb) of the Social Security Act), which we refer to as the PPS rate. We strongly supported this provision because it is critical to the success of health centers participation in the Exchanges, as it guarantees a fair and adequate payment for the items and services that health centers provide to our nation's most vulnerable patients.

The final rule includes language codifying the FQHC payment provision by requiring that QHPs reimburse an FQHC no less than its Medicaid PPS rate, unless a different rate is mutually agreed upon by both the QHP and the FQHC (see 45 CFR § 156.235(e)). While we believe that QHPs should pay each FQHC its Medicaid PPS rate in all cases, whether in or out of network, we appreciate your attention to this provision, and we are asking that you clarify that a QHP issuer is required to pay an FQHC its Medicaid PPS rate for the items and services the FQHC provides to a QHP enrollee in an instance where the FQHC is not contracted to provide items and services with the QHP issuer. In other words, if an enrollee of a QHP is treated by an FQHC that does not have a contract with the QHP, the center must be paid by that QHP no less than the FQHC's Medicaid PPS rate. We believe that this additional clarification would help assure that this requirement in PPACA is carried out as intended, at least in the case of out-of-network care, and is necessary to ensure that QHPs provide adequate reimbursement for the care provided at health centers to their patients in such cases. We believe the current language in the final rule may be misinterpreted by some and would very much appreciate your help reconfirming the intent of this important PPACA provision.

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Thank you for your consideration of this request for clarification and for your support for health centers. Should you or your staff have any questions on this issue, please contact Roger Schwartz at 202.296.0158.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel R. Hawkins, Jr.", written in a cursive style.

Daniel R. Hawkins, Jr.
Senior Vice President
Public Policy and Research