

October 24, 2011

Ms. Cheryl Allen
United States Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20415

Re: RFI# OPM35-11-R-0001

Dear Ms. Allen,

The *Patients' Access to Responsible Care Alliance* (PARCA), a national coalition representing the interests of hundreds of thousands of non-MD/DO health care providers and millions of patients in need of high-quality and cost-effective health care, welcomes the opportunity to provide comments in response to OPM's Request for Information regarding Multi-State Plan Nationwide Insurance Plans Offered through Exchanges.

Representing twelve national health care provider organizations, PARCA is the preeminent voice for America's non-MD/DO health care provider community and the millions of patients they serve. Overall, PARCA aims to provide policymakers with access to information from all areas of the health care community, in order to assist in the formulation of responsible, well-rounded health care policy. PARCA is firmly committed to high-quality and cost-effective care, and ensuring patients have options in the delivery of such care.

While your Request for Information was addressed mainly to health insurance issuers who may be interested in the Multi-State Plan program, we believe that OPM would also benefit from the expertise and experience of the nation's non-MD/DO health care providers as well as state regulators with oversight of these insurance markets. Consequently, we are providing comments largely in support of those already submitted by the National Association of Insurance Commissioners (NAIC).

OPM asks: "What additional issues and advantages do you see with offering a Multi-State Plan?" In response, NAIC states that the Multi-State Plan program could provide some of the nation's largest insurers with significant market advantages, particularly if the Multi-State Plans are exempt from the regulatory oversight of Insurance Commissioners and programmatic oversight by State exchanges. As such, NAIC urges OPM to require Multi-State Plans to meet the requirements of certification for each exchange on which they are sold. PARCA fully agrees that Multi-State Plans should be subject to the regulatory oversight of each state's respective insurance commissioner and should be required to meet the requirements of certification for each Exchange on which they are sold.

OPM asks: “Do certain State laws create opportunities for or barriers to the operation of Multi-State Plans?” In response, NAIC states that the health care system varies greatly from one state to another and within a state, and these variations give rise to different consumer protection issues. Under the Affordable Care Act (ACA), a health insurance issuer offering a Multi-State Plan remains “subject to all requirements of State law not consistent with this section.” NAIC asserts that exempting Multi-State Plans from the additional consumer protections a state has put in place will confuse consumers, leave some consumers with less protection than others and result in an unlevel playing field that could give the nation’s largest insurers additional competitive advantages in the marketplace, thereby undermining the goal of the ACA to create more competition in health insurance markets and strengthen consumer protections.

PARCA fully agrees with NAIC that Multi-State Plans must not be exempted from new or existing consumer protections, particularly provider non-discrimination protections and other patient access safeguards. Without patient access and provider non-discrimination safeguards, health plans may discriminate against whole classes of health care professionals based solely on their licensure or certification. This type of outright discrimination can limit or deny patient choice and access to a range of beneficial, safe and cost-efficient health care professionals. If Multi-State Plans are allowed to dilute these protections or circumvent them altogether, patient choice and access could be severely limited. Therefore, PARCA urges OPM to ensure full application of existing state provider non-discrimination laws to Multi-State Plans.

Further, to better ensure patient access to this high-quality and cost-effective care, PARCA reminds OPM that the ACA requires most plans to adhere to a new federal provider non-discrimination provision. (Sec. 1201, Subpart 1, creating a new Public Health Service Act Sec. 2706, “Non-Discrimination in Health Care, 42 USC §300gg-5) slated to take effect January 1, 2014. This key provision indicates that “a group health plan and a health insurance issuer offering group or individual health insurance coverage shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider’s license or certification under applicable State law.”

Overall, PARCA feels strongly that protecting existing patient access safeguards and fully implementing new protections will be essential to ensuring the success of health reform efforts. Without question, limiting patient access and choice reduces competition solely for the economic benefit of other providers and ultimately increases cost for consumers by concentrating market share. Unchecked provider discrimination not only leads to poorer health outcomes overall, but it is also one of the major drivers of spiraling health care costs. As such, PARCA urges OPM to ensure that Multi-State Plans adhere to the new federal provider non-discrimination standard referenced above as well as other health insurance market reforms included in the ACA

OPM asks: “What would you propose as a network access standard for primary and specialty care physician practices and hospitals? Are there existing models that you

prefer?” In response, NAIC states that, “State regulators have found through experience that no single network access standard can be satisfactorily applied across the country. The needs of urban, suburban, and rural areas all are very different and attempting to impose a single standard across all 50 states could leave consumers in some areas without access to critical providers...” As such, NAIC urged OPM to require that all Multi-State Plans comply with state network adequacy standards that apply to everyone in the marketplace.

While PARCA agrees with NAIC, we would also like to stress that robust network adequacy standards are needed to ensure that health plans operating within Exchanges offer a sufficient choice of providers for enrollees. As outlined above, PARCA believes that it is important to ensure that patients have access to MD/DO providers as well as a sufficient number of non-MD/DO providers, including non-MD or DO providers who bill for Part B services under Medicare. Network adequacy standards must reflect the important role of non-MD/DO health care providers. However, without strong patient access safeguards in place, the PARCA coalition is concerned that lax network adequacy standards could limit the number of providers or the types of providers on health plan panels, which could severely limit patient access to needed care. As OPM prepares to look at these standards, we recommend that Multi-State Plans be required to adhere to the provider non-discrimination provision in the ACA mentioned above, and to demonstrate network adequacy with evidence.

OPM asks; “Are there any other risks, concerns or recommendations you would like to share?” In response, NAIC said that Multi-State Plans raise a number of serious concerns for state insurance regulators...including...preemption of state laws for plans that are not Multi-State Plans. In order to emphasize that Congress intended for Multi-State Plans and CO-OP Plans to compete on a level playing field with private plans, drafters included a provision that exempted other private plans from 13 categories of state and federal requirements if Multi-State Plans and CO-OP Plans were not also subject to those same requirements, with one of the 13 requirements being non-discrimination.

NAIC continues to make its case by stating that it was not Congress’ intent to actually create an exemption from these requirements, but to provide extra comfort to the plans that Multi-State Plans and CO-OP Plans would be subject to the same state and federal requirements as every other plan. However, if Multi-State Plans are exempted from any state standards, or held to different standards, it could result in all carriers being exempted from a wide range of state regulatory standards to the immediate detriment of consumers.

PARCA fully agrees with NAIC, particularly as it relates to possible preemption of provider non-discrimination standards and other patients access safeguards. Multi-State plans must be required to follow state law and regulation. PARCA urges OPM to remember that the entire point of Exchanges is to allow consumers to shop for coverage with the confidence that they are making valid comparisons between plans that are subject to the same regulatory requirements, such as provider non-discrimination. As such, PARCA believes that Multi-State Plans and others must comply with existing state

law and regulation as well as new insurance reforms included in the ACA. After all, allowing Multi-State Plans to elude state regulation or new patient access safeguards would only create an uneven playing field and would certainly instigate a health insurance race to the bottom - an outcome that would doom patient across the country and extinguish any chance of success for ongoing health reform efforts.

Thank you for the opportunity to provide comments and recommendations on this proposed rule. If you have any questions, please contact the PARCA Chair Jack Dusik, Director of Federal Government Relations at the American Chiropractic Association at 703-812-0246 or jdusik@acatoday.org.

Sincerely,

The Patients Access to Responsible Care Alliance

- American Academy of Audiology
- American Academy of Nurse Practitioners
- American Association of Nurse Anesthetists
- American Chiropractic Association
- American College of Nurse Midwives
- American Occupational Therapy Association
- American Optometric Association
- American Psychological Association
- American Speech-Language-Hearing Association
- National Association of Social Workers

cc: National Association of Insurance Commissioners