



October 6, 2017

Director Jennifer Hammer
Illinois Department of Insurance
320 W Washington St.
Springfield, IL 62701

Director Hammer,

The AIDS Foundation of Chicago (AFC) and Legal Counsel for Health Justice would like to inquire as to the steps being taken by the Illinois Department of Insurance to enforce non-discriminatory practices in plan design, as referenced in the Department's bulletin dated May 23, 2014.

The May 23, 2014 bulletin established that it is the Department's policy to "examine plans in depth to determine compliance with 45 C.F.R. 156.125." The bulletin goes on to state:

Pursuant to 45. C.F.R. 156.125, *Prohibition on discrimination*, an issuer does not provide essential health benefits (EHBs) under the Affordable Care Act if its benefit design or the implementation of its benefit design, "discriminated based on an individual's age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions." The purpose of this bulletin is to remind issuers that this prohibition on discrimination applied equally to all health conditions, including but not limited to HIV/AIDS.

We appreciate the efforts the Department has made to monitor these issues. We also examine plans' benefits design and we continue to have concerns about policies that may limit accessibility of medications for HIV/AIDS and chronic diseases like hepatitis c and that can have the effect of discouraging individuals from choosing certain plans as a result. Specifically, we are very concerned that healthcare insurers may be using their prescription drug formularies in their Qualified Health Plans (QHPs) to avoid risk, shift costs, and discourage enrollment by person's living with HIV/AIDS and other chronic diseases including, but not limited to, HCV.

Complaints filed by the AIDS Foundation of Chicago and Legal Counsel for Health Justice with the Illinois Department of Insurance last year against Humana, demonstrating that the insurer placed many HIV medications on Tier 5 categorization as specialty medications.

In light of our common interest in ensuring plan compliance with the law, we respectfully request an update on the Department's efforts to assess plan compliance with federal law in Illinois since issuance of the bulletin. We would be happy to meet at your convenience to discuss this issue and would be grateful for any documentation of the Department's efforts that is available. Due to the opening of enrollment on

November 1, we would appreciate a response at your earliest convenience, though no later than October 20.

We look forward to your response.

Respectfully,

Daniel Frey
Director of Government Relations
AIDS Foundation of Chicago

Carrie Chapman
Director of Policy Advocacy & Strategic Innovation
Legal Counsel for Health Justice