



October 26, 2017

U.S. Department of Health and Human Services
Office of the Assistance Secretary for Planning and Evaluation
Strategic Planning Team
Attn: Strategic Plan Comments
200 Independence Ave. S.W.
Room 415F
Washington, D.C. 20201

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Attn: Comments on the HHS Draft Strategic Plan FY 2018-2022

Since 1972, the National Women's Law Center ("Center") has worked to protect and advance the progress of women and their families in core aspects of their lives, including employment, family and economic security, education, and health and reproductive rights, with an emphasis on the needs of low-income women and those who face multiple forms of discrimination. The Center works to ensure all people have equal access to a full range of health care, including abortion and birth control, regardless of income, age, race, gender, gender identity, ethnicity, geographic location, or type of insurance coverage.

The Center is writing to express a few key concerns with the Department of Health and Human Services' (HHS) Draft Strategic Plan FY 2018-2022.

1. HHS is undermining its mission by taking actions that upend the Affordable Care Act's core provisions that provide individuals with quality, affordable health insurance.

The Draft Strategic Plan claims to have the goal of "supporting multiple strategies to reduce health care costs and promote more affordable health care," including "promoting preventive care," "promoting the use of lower cost health care options," and "strengthening informed consumer decision-making." (Objective 1.1). Yet, in just the last few weeks the Trump Administration and HHS have taken multiple actions that gut important pieces of the Affordable Care Act (ACA) that promote preventive care and help individuals afford health insurance, actions which contradict that goal. First, HHS and the Departments of Labor and Treasury issued interim final rules that allow any employer with religious or moral objections to deny birth control coverage guaranteed to employees by the Affordable Care Act's preventive services provision. As HHS itself has recognized, birth control is critical preventive service that prevents unintended pregnancy, treats medical conditions, and furthers women's social and economic equality. Second, the Trump Administration announced that it would cease cost-sharing reduction payments, which are critically important to individuals – especially women – who get health coverage through the ACA marketplaces. Rather than helping promote lower cost options, studies have shown that suspending these payments will cause insurers to raise rates on silver-level plans and overall increase premiums among those who do not receive premium subsidies.

HHS has also significantly shortened the open enrollment period for coverage beginning in 2018 and cut the promotion and education budget by 90 percent. Rather than “strengthen informed consumer decision-making,” these actions lead to confusion and uncertainty.

In order to fulfill its mission, HHS should stop taking actions that are aimed at making the Affordable Care Act fail. In its Strategic Plan, HHS must commit to and fully enforce the Affordable Care Act.

2. HHS must commit to ensuring the Medicaid program continues to work for those, especially women, who are struggling to make ends meet.

The Draft Strategic Plan explains that HHS is “actively working to reduce disparities in health care access, creating solutions to promote access for individuals and populations at highest risk.” (Objective 1.3). The Medicaid program has long been a vital health insurance program for those most at risk, providing free or low-cost health insurance coverage to millions of individuals, including parents, children, seniors, pregnant women, and individuals with disabilities. Medicaid has been critically important to women – covering a range of services that addresses most of women’s major health needs throughout their lives and fostering their economic security. Yet, this Administration has indicated its willingness to consider new, harmful incursions on the Medicaid program – like work requirements and cutting out essential reproductive health care providers – that not only violate underlying Medicaid law but will also harm the health of individuals most at risk and exacerbate disparities.

In order to fulfill its mission, HHS should make it clear in this Strategic Plan that it will protect and promote the Medicaid program and refuse attempts by states to waive important requirements of the program that ensure individuals are healthy and economically secure.

3. HHS is attempting to promote a definition of “person” that contradicts longstanding law and policy, and could have devastating consequences for a range of health care services.

The Draft Strategic Plan defines lifespan as from “conception” to “natural death,” and vows to respect “the inherent dignity of persons from conception to natural death.” (Objective 2.4). The explicit commitment to a definition of personhood that begins at conception is unsupported by medicine and runs counter to well-established constitutional case law. *Roe v. Wade*, 410 U.S. 113 (1973), established that women have a fundamental right to decide to have an abortion, declaring that “the word ‘person,’ as used in the Fourteenth Amendment, does not include the unborn.” This central holding of *Roe* has been consistently upheld and reaffirmed by the Supreme Court, including just last year in *Whole Woman’s Health v. Hellerstedt*, 136 S.Ct. 2292 (2016). HHS’s reliance on an unscientific, non-medical definition of “person” raises serious concerns about government overreach into the provider-patient relationship and could threaten patients’ access to crucial health care services, including birth control, assisted reproductive technology, stem cell research, and *in vitro* fertilization. Perhaps most crucially, this definition threatens autonomous decision-making for all women, including those intending to carry their pregnancies to term.

HHS must remove this language from its Strategic Plan.

4. HHS appears poised to allow the use of religion to dictate patient care.

The Draft Strategic Plan states that HHS will “promote equal and nondiscriminatory participation by faith-based organizations in HHS-funded or conducted activities,” will “remove barriers” to faith-based providers participating in HHS programs, and will “affirmatively accommodate” the religious beliefs and “moral convictions” of persons and entities partnering with HHS (Objective 1.3).

A health care provider’s religious beliefs should never determine the care a patient receives, and patients should not have to fear that a health care provider will turn them away due to religious or moral beliefs. Instead, a patient should receive equal access to health care services, as well as complete and accurate information about their health situation, no matter their reproductive decisions, gender, sexual orientation, or gender identity. When hospitals, clinics, and individual health care providers are given the ability to refuse patient care or withhold medically accurate and relevant information based on religious or moral beliefs, patients suffer devastating health consequences. The harms caused by refusals to provide care have a disproportionate impact on those who already face multiple barriers to care, including communities of color, LGBTQ individuals, people facing language barriers, and those struggling to make ends meet.

Moreover, it is not the case that faith-based health care providers are facing barriers to participation in HHS programs. What some faith-based providers have identified as barriers are simply non-discrimination requirements as well as laws and program conditions that require the delivery of essential and medically necessary health care services to which these providers object. The requirements, laws, and program conditions are not barriers but rather fundamental legal requirements from which there can be no “accommodation.”

HHS should commit to putting measurable goals toward improving individual patient care at the center of any strategic plan, and should work to ensure that medical standards of care and individual patient circumstances determine patient care, not providers’ and insurance companies’ religious or moral beliefs. HHS should commit to truly putting patient health first by ensuring that all organizations participating in HHS programs, including faith-based organizations, adhere to federal nondiscrimination requirements and requirements to provide patients with evidence-based essential health care.

5. HHS appears to be abandoning its responsibility of protecting abortion providers from discrimination.

The Draft Strategic Plan fails to acknowledge that many health care providers have religious and moral convictions that they must provide services that patients need, including abortions. HHS is responsible for enforcing federal law that protects individual health care providers from discrimination due to their providing abortions and other care. If HHS cares about protecting individual health care providers’ conscience beliefs, as it claims, then it should acknowledge its responsibilities under federal law and articulate a commitment to protecting those who are providing abortions and other services that patients need.

HHS should recognize its responsibility under federal law and commit to protecting reproductive health care providers from discrimination.

6. HHS is failing to address the needs of vulnerable and underserved groups.

The HHS Strategic Plan for FY2014-2018 established measurable goals to improve the health outcomes of all people by specifically recognizing the health disparities that persist among vulnerable populations. In contrast, while the Draft Strategic Plan references “culturally-competent care” and acknowledges that health disparities exist generally, it removes all language identifying these communities specifically by name. These omissions send a troubling signal that the agency will deprioritize work on closing gaps in health care services and outcomes across these groups.

HHS should include, as it has in the past, specific objectives and goals relating to the persistent health disparities that continue to exist for communities of color, people with disabilities, individuals facing language barriers, LGBTQ individuals, and others facing systemic barriers to health care.

HHS’s stated mission is to “to enhance and protect the health and well-being of all Americans.” This mission is fundamentally focused on patient health. In order to advance this mission, the Center urges HHS to revise its Draft Strategic Plan as recommended above.

Sincerely,



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Vice President for Reproductive Rights and Health