



### Exchange Issues Important to Women

The Affordable Care Act (ACA) protects women from discriminatory health insurance practices, makes health coverage more affordable and easier to obtain, and improves access to many of the health services women need. By 2019, roughly 14 million women will purchase their health coverage through an exchange and over half of them will have been previously uninsured.<sup>1</sup> Women have much at stake in the implementation of the new health care law and the successful operation of exchanges.

- Women comprise a disproportionate share of health care consumers, often managing multiple chronic conditions and paying more out-of-pocket costs, causing their health care to be prohibitively expensive and frequently unaffordable.<sup>2</sup>
- Women routinely forgo needed services and care. Indeed in 2008, one in four women reported going without needed health care because they could not afford it.<sup>3</sup>
- Women make the vast majority of health care decisions. Estimates from the Department of Labor indicate that women make approximately 80% of health care decisions for their family.<sup>4</sup>
- Women have unique health care needs and concerns. Many women experience a number of life changing events, such as pregnancy, that require the flexibility to change coverage options.
- Traditionally, health insurance plans sold in the individual market have failed to provide comprehensive maternity services; in 2009 only 13% of plans sold in the individual market included comprehensive maternity coverage.<sup>5</sup>
- Women are concerned with easily finding coverage options that include the full range of reproductive health services they need, such as family planning, maternity care, and abortion care.

Women have much to gain from the ACA and the effective operation of exchanges— alongside strong consumer protections that relieve longstanding forms of discrimination— are the mechanisms to realize the full promise of the health care law. While states will make many major policy decisions, we believe strong minimum federal standards will ensure exchanges include fair and equitable principles to guarantee that women, across states, benefit from the law. We have identified six key areas where we encourage the Department of Health and Human Services (HHS) to adopt strong federal standards on which states can build effective exchanges.

- *Navigators*: Navigators will play an essential role in helping women find and obtain health coverage. Because women make the majority of health decisions for their families, including children, spouses, and aging parents, they will rely heavily on the knowledge and guidance of Navigators to help them make the appropriate coverage choices. Given this important role, we strongly urge HHS to adopt robust training and accountability standards to ensure Navigators offer fair and impartial guidance.

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<sup>1</sup> Kaiser Family Foundation, “A Profile of Health Insurance Exchange Enrollees,” March 2011, <http://www.kff.org/healthreform/upload/8147.pdf>; Kaiser Family Foundation, “Impact of Health Reform on Women’s Access to Coverage and Care,” December 2010, <http://www.kff.org/womenshealth/upload/7987.pdf>.

<sup>2</sup> Elizabeth M. Patchias and Judy Waxman, “Women and Health Coverage, the Affordability Gap,” National Women’s Law Center, April 2007,

[http://www.commonwealthfund.org/usr\\_doc/1020\\_Patchias\\_women\\_hlt\\_coverage\\_affordability\\_gap.pdf](http://www.commonwealthfund.org/usr_doc/1020_Patchias_women_hlt_coverage_affordability_gap.pdf)

<sup>3</sup> Ibid.

<sup>4</sup> US Department of Labor, “General Facts on Women and Job Based Health,”

<http://www.dol.gov/ebsa/newsroom/fshlth5.html>

<sup>5</sup> Brigitte Courtot and Julia Kaye, “Still Nowhere to Turn,” The National Women’s Law Center, 2009, <http://www.nwlc.org/sites/default/files/pdfs/stillnowheretoturn.pdf>.

- *Governance:* It is in the interests of consumers that exchanges operate as independent entities with robust, competent consumer-centered governance structures, free from conflicts of interest. One of the overarching goals of the health care law is to offer affordable health coverage to millions of individuals; exchange boards comprised by parties who have a financial interest in the products sold in the exchanges and could potentially benefit financially from rising premiums would constitute a major conflict of interest. This issue is particularly important to women who not only make the vast majority health care decisions for their families but also cite affordability and rising premiums as a central concern in their health care decision-making.
- *Reproductive Health:* The health care law includes a set of rules that impose unfair burdens on insurance plans that offer abortion coverage. As HHS creates regulations for the new state health insurance exchanges, we urge them to implement these restrictions in the least-burdensome manner possible, both for plans and for consumers, so that women can continue to choose an insurance plan that covers all their health care needs.
- *Essential Community Providers:* To ensure that patients have access to trusted providers in their communities, the new health care law requires health plans participating in state exchanges to contract with essential community providers, including women’s health centers. This protection will help millions of women and their families receive the primary and preventive care they need. It is also fundamental to resolving the overwhelming provider access issues that can so easily come with expanding coverage to 32 million Americans.<sup>6</sup>
- *Network Adequacy:* The unique health needs of women necessitate access to a range of specialists and providers. This is especially true in rural or medically underserved areas where geographic limitations coupled with lack of providers and specialists hamper a woman’s ability to access the full range of appropriate health care options. HHS should set minimum standards for “sufficient choice of providers for enrollees” which will serve as a minimal level of protection for network adequacy standards. Moreover, HHS should develop a process to ensure that an enrollee can obtain a covered benefit from an out-of-network provider, at no additional cost, if no network provider is accessible for that benefit in a timely manner.
- *Nondiscrimination Standard:* Women have long faced unfair and discriminatory health insurance practices, including charging women more than men for the same coverage. Congress adopted important non-discrimination protections in the health care law to ensure that these types of discriminatory health insurance practices would cease, including section 1557, which prohibits discrimination in federal health programs, health programs receiving federal dollars, and other programs, including the health insurance exchanges. The proposed regulation prohibits states, exchanges, and issuers of qualified health plans from discriminating on the basis of race, color, national origin, disability, age, sex, gender identity, or sexual orientation. To ensure that states and insurance plans fully understand how the federal and state laws function together in accordance with the nondiscrimination provision, HHS should issue regulations clarifying this section of the statute. In addition, HHS should expressly adopt strong enforcement and oversight mechanisms.

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<sup>6</sup> U.S. Department of Health and Human Services, “About the Law,” <http://www.healthcare.gov/law/about/index.html>.