



August 1, 2014

The Honorable Thomas E. Perez
Secretary
United States Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Dear Mr. Secretary,

I am writing on behalf of Catalyst for Payment Reform to support the Administration's position as outlined by the guidance set forth in the FAQ document circulated on May 2, 2014 (PHS Act section 2707(b)).¹ Catalyst for Payment Reform appreciates the Administration's efforts to improve health care value. We also welcome this opportunity to comment on the application of out-of-pocket limits as they relate to the use of reference-based pricing initiatives. Reference pricing has been a focus of our organization's strategy for several years. CPR feels strongly about its potential to signal to health care providers that unwarranted price variation – widely ranging prices that bear no relationship to the quality of care – is no longer acceptable to those who use and pay for care, and to engage consumers in making higher-value health care decisions than they have in the past.

Catalyst for Payment Reform (CPR) is an independent, nonprofit corporation working on behalf of large self-funded employers and other health care purchasers to catalyze improvements in how we pay for health services and promote higher-value care in the United States. Our members represent large private sector employers, state purchasers, and consultancies supporting public and private purchasers with their employee health benefit programs. Our members are large, strategic organizations, purchasing health care coverage for more than 12 million individuals with annual health care expenditures of approximately \$52 billion dollars. For more information about Catalyst for Payment Reform, please visit our website [here](#).

Employers are turning to innovations in health care payment, benefit design, and network design to manage their costs and view reference pricing as an approach that addresses all of these issues. Reference pricing can influence the marketplace by establishing a price for a procedure with high-quality, efficient providers, and encouraging patients to seek care from these providers through benefit design incentives. Programs such as CalPERS' total hip and knee replacement reference pricing initiative have demonstrated that consumers can be engaged and providers can be incentivized to offer high-quality, cost-effective care. After finding more than a seven-fold difference in the price for

¹ FAQs about Affordable Care Act Implementation, Part XIX, Question 4. Available from: <http://www.dol.gov/ebsa/faqs/faq-aca19.html>

hip and knee replacements, CalPERS implemented a reference price for these procedures in collaboration with Anthem Blue Cross. Anthem initially identified 46 hospitals which met volume and quality standards and were willing to perform hip or knee replacement surgery for \$30,000 or less for the hospital stay and the implant device. Facing the prospect of losing patient volume or actually losing patients to providers able to meet the reference price, a number of providers were willing to lower their prices in order to be included in the program. This is an example where reference pricing 1) provided access to high-quality providers to CalPERS members²; 2) provided cost savings to CalPERS³; 3) made price and quality information transparent to CalPERS' members; and 4) resulted in a change in provider market behavior.

Reference pricing programs require thoughtful attention to how they are designed, including guidance on the application of out-of-pocket maximums limits, price and quality transparency, and network adequacy. We support the direction of the Department of Labor in exempting both medical and pharmaceutical reference pricing programs from the maximum out-of-pocket provisions set forth by PHS Act section 2707(b). Our members view reference pricing initiatives as part of a larger effort to ensure quality of care at the lowest cost – it is not just a cost containment strategy. Employers have inherent incentives to make sure these programs work effectively – from ensuring consumers have access to the necessary information about the quality and cost of providers, an adequate network of providers, high-quality outcomes and a positive personal experience, to minimizing an employee's time away from work, among other considerations.

We believe the guidance from the Department of Labor is consistent with the intent of the ACA, and provides reasonable cost containment options to help make health care more affordable for consumers. Should the Department feel there is a need for more specificity related to issues such as network adequacy or transparency standards, we request that such guidance be developed through a public, multi-stakeholder engagement process.

On behalf of the private and public purchasers we represent, thank you for your time and consideration. Please do not hesitate to contact me at sdelbanco@catalyzepaymentreform.org if you have any questions.

Sincerely,



Suzanne F. Delbanco, Ph.D.
Executive Director

² U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality. Reference-Pricing Policy for Hip/Knee Replacements Generates Significant Savings by Encouraging Enrollees to Choose High-Value Facilities. May 21, 2014. Available from: <http://www.innovations.ahrq.gov/content.aspx?id=4069>

³ Ibid