January 31, 2023

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9898-NC, Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: CMS-9898-NC, Request for Information; Essential Health Benefits

Dear Administrator Brooks-LaSure:

Thank you for the opportunity to comment on Essential Health Benefits (EHB). The Digestive Disease National Coalition (DDNC) is comprised of both patient and provider organizations with a mission to improve the health of patients suffering from digestive diseases, many of which are chronic, long-term conditions. We very much value the patient protection provisions offered by the Affordable Care Act (ACA) and other policies focused on quality, affordable, health care for all Americans.

There are four key areas on which we wish to comment:

1) The ACA details cost-sharing policies and provides for out-of-pocket maximums, limiting overall out-of-pocket costs on all essential health benefits (EHB). Third party payors and benefit managers are employing harmful policies that do not apply copay assistance toward beneficiaries’ out-of-pocket costs and deductibles. These copay accumulator policies significantly increase out-of-pocket costs for the category of patients who can least afford them. Since the passage of the ACA, cost-sharing policies have changed such that chronic illness patients who require specialty medications are almost guaranteed to meet their out-of-pocket maximum annually, which is unsustainable for most Americans. To keep pace with cost-shifting tactics, we urge CMS to issue regulations that require insurers to count copay assistance towards patient cost-sharing requirements.
2) **Step Therapy and other utilization management tactics** such as prior authorization employed by third party payors delay essential and timely patient access to appropriate treatments and drive a wedge between the patient/provider decision-making process. Many patients with progressive, chronic, digestive diseases are harmed by delays, interruptions, or diversions in their treatment regimen arrived at through careful evaluation by their highly trained provider and in the best interest of their long-term health outcomes. Allowing treatments to be based on cost savings tactics employed by a third party is a perverse incentive process and places the patient’s health at great risk. **Essential Health Benefits regulations** should curb or place guardrails on step therapy, prior authorization, non-medical switching, and other utilization management tactics—and consider the needs and interests of patients first.

3) Coverage policies for **medically-necessary nutrition and food** are inconsistent and spotty across insurance plans. Certain digestive and inherited metabolic disorders prevent the body from digesting, absorbing or metabolizing food. For these individuals, both children and adults, medically-necessary nutrition and/or foods are essential and are a critical component of their medical treatment. Therefore, they should be regarded as essential health benefits.

4) We are concerned that coverage under the ACA regarding the classification of follow-up surveillance colonoscopy coverage is not consistent with Medicare coverage policies, creating an inappropriate disparity in EHB coverage policies for those insured in non-Medicare health plans. **Thus, we urge CMS to modify EHB to include follow-up surveillance colonoscopy as part of the ACA “preventive services” benefit, which is critically needed to reduce barriers to colorectal cancer screening, as well as incidence and death rates.**

Thank you for your consideration of the above recommendations. For many Americans suffering from digestive diseases, the terms **affordable care** and **essential health benefits** bear a hollow ring when ACA EHB regulations allow third parties to employ tactics which increase their out-of-pocket costs beyond their ability to pay, delay access to appropriate and essential treatments and supplies, and fail to cover medically-necessary therapy.

Please see attached the DDNC’s White Paper on cost shifting tactics utilized by third party payers which more clearly defines these tactics and articulates the challenges faced by patients with digestive diseases and other chronic health conditions.

Sincerely,

Jeanine Gleba
Voluntary Chairperson

Caroll Koscheski, MD, FACG
Voluntary President