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March 11, 2014

Nirav Shah, MD, Commissioner
New York State Department of Health
Corning Tower – Empire State Plaza
Albany, NY 12237

Re: Language access on the NY State of Health exchange

Dear Nirav:

We are writing to express concerns about inadequate language and immigrant access to New York's health plan marketplace, the NY State of Health.

In September, the Assembly Committees on Health and Insurance and Task Force on New Americans held a public hearing on this issue. We regret that, six months later, major deficiencies remain.

We share the administration's commitment to improving language access for New York's limited English proficient (LEP) populations. The NY State of Health provides an unprecedented opportunity for expanding access to healthcare, with the potential to enroll 1.1 million New Yorkers into coverage.

Thirty-six percent of prospective enrollees speak a primary language other than English. The marketplace has the potential to expand coverage among New York's immigrant population, which is more than four times more likely to lack health insurance than the non-immigrant population. We are concerned, however, that the NY State of Health may fall short of its potential because it has not provided meaningful access to New York's LEP and immigrant population.

Several civil rights laws require the Marketplace to provide adequate interpretation and translation services. The NY State of Health, however, is not currently meeting its obligations. The website and online application are available in English only. A Spanish paper application is available upon request. However, information on how to request a Spanish application is not easily accessible. Fact sheets are available in seven other languages. However, descriptions of the fact sheets are in English. Further, there are no

taglines in other languages on the home page of the website directing consumers to those materials.

For LEP consumers seeking information through the NY State of Health Help Line, available interpretation services have proved insufficient. Many consumers wait over an hour before reaching a live operator and some Navigators report being on hold for 2-3 hours, while with a client, before reaching a representative. Additionally, while options other than English and Spanish are available, all other language lines provide instructions and hold announcements in English and operators often answer in English.

Finally, immigrants eligible for coverage in the marketplace not only face language barriers, but also face challenges in verifying identification documentation.

With the end of the open enrollment period, March 31, 2014, rapidly approaching, the State should ensure that the NY State of Health provides adequate access for New York's LEP and immigrant population. We recommend the following:

- Designate limited English proficiency as a "special circumstance" under the Affordable Care Act, which would enable LEP New Yorkers to enroll outside of the official open enrollment period, which ends March 31st.
- Provide a clear timeline for translating the NY State of Health website and online application into Spanish.
- Improve translations of online materials and add taglines in multiple languages on the home page of the NY State of Health website that direct LEP consumers to materials in their language.
- Increase the number of Help Line phone operators who speak languages other than English and record hold announcements in languages other than English;
- Ensure that LEP consumers receive notices concerning the status of their enrollment application in their primary language from the NY State of Health.
- Increase capacity within the NY State of Health to verify identify documentation for immigrant applicants.
- Increase outreach to LEP New Yorkers by working with ethnic media and community-based organizations. Messages should be inclusive of immigrant families.
- Provide easily accessible information on the website on how consumers can find an in-person assisters, including Navigators and Certified Application Counselors, who speak their primary language.
- Require that the NY State of Health report primary language as well as race/ethnicity data collected in the application.

We look forward to working with you to improve access to the NY State of Health marketplace for LEP and immigrant New Yorkers.

Very truly yours,



Richard N. Gottfried
Chair
Committee on Health



Kevin A. Cahill
Chair
Committee on Insurance



Marcos A. Crespo
Chair
Task Force on New
Americans