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**CENTER FOR HEALTH LAW AND POLICY INNOVATION OF HARVARD LAW SCHOOL
LAUNCHING GROUNDBREAKING CAMPAIGN TO ENFORCE HEALTH CARE RIGHTS
FOR PEOPLE LIVING WITH HIV IN SEVEN STATES**

Landmark Complaints Filed with the Federal Office for Civil Rights

(Cambridge, MA – September 6, 2016) In the face of highly restrictive and discriminatory health insurance plans within the Affordable Care Act (ACA) Marketplaces, the Center for Health Law and Policy Innovation of Harvard Law School (CHLPI) is undertaking a new advocacy campaign to enforce the health care rights guaranteed by the ACA for people living with HIV and other chronic conditions. Drawing upon CHLPI’s extensive research and new avenues for civil rights enforcement under the ACA, the campaign aims to strengthen protections in the health insurance Marketplaces and eliminate insurer practices that prevent vulnerable patients from receiving the care and treatment they need. These discriminatory practices include refusing to cover key medications and requiring high cost sharing for all medications used to address certain health conditions.

CHLPI, along with state partners in seven states, has filed formal administrative Complaints with the U.S. Department of Health and Human Services’ Office for Civil Rights (OCR). OCR is charged with enforcing the ACA’s new anti-discrimination regulations in state ACA health insurance Marketplaces. “CHLPI is using the OCR process to shine a light on discrimination occurring under the cloak of supposedly neutral insurance plan benefit design. When an insurer requires chronically ill patients to pay a disproportionate share of the cost of medication it violates federal law” says Robert Greenwald, CHLPI’s Faculty Director and Clinical Professor of Law at Harvard Law School. “These are landmark Complaints that will benefit everyone looking to receive equitable, comprehensive health care through the Marketplaces by helping to define anti-discrimination law at a time when insurers are covering less and less.”

The campaign is designed to effectuate the major new civil rights framework created by the regulations implementing the anti-discrimination provisions of Section 1557 of the ACA. CHLPI anticipates that its OCR complaints will help define and set the standard for how these new civil rights protections are applied in health insurance markets. Recent news of insurance providers choosing to exit the health insurance Marketplaces across the country make the Complaints and related efforts to enforce the health care rights of people living with HIV more important. CHLPI has increasingly seen insurers who offer reasonable patient cost sharing leave the Marketplaces, arguing that they cannot afford to compete with insurers practicing discriminatory plan design. This leaves individuals at the mercy of insurers charging high copayments or coinsurance for life-saving medications, and de-stabilizes the Marketplaces by reducing the number of insurers offering plans.

While recent news of insurers departing from the Marketplaces may make regulators feel reluctant to push the remaining insurers toward offering more equitable, non-discriminatory coverage, failure to enforce the non-discrimination regulations could have serious long-term implications on the success of the ACA. Greenwald says “Ultimately, our hope is to work to help stabilize the marketplace—encouraging more insurers who have experience with Medicaid managed care or community hospitals

to provide coverage, and ensuring that strong regulations are in place that provide a level playing field to people relying on the Marketplaces.”

Greenwald notes, “Our campaign seeks to support the Office for Civil Rights and its charge to ensure equal access to health care without discrimination through Section 1557. This landmark effort will protect insurers who offer reasonable access to HIV medications, promote more consistent coverage patterns by insurers, and support efforts to address the care and treatment needs of people living with HIV and other chronic conditions.”

CHLPI has partnered with other state partners, including AIDS Alabama, AIDS Research Consortium of Atlanta, AIDS Foundation of Chicago, CrescentCare (formerly the NO/AIDS Task Force) in Louisiana, Nashville CARES, AIDS Resource Center of Wisconsin, and AIDS Law Project of Pennsylvania. CHLPI and its state partners have filed complaints against the following insurers:

- Humana: Complaints filed in Alabama, Georgia, Illinois, Louisiana, Tennessee, and Texas
- Cigna: Complaints filed in Georgia, Tennessee, and Texas
- Highmark: a Complaint filed in Pennsylvania
- Independence Blue Cross: a Complaint filed in Pennsylvania
- UPMC Health Plan: a Complaint filed in Pennsylvania
- Community Health Choice: a Complaint filed in Texas
- Anthem Blue Cross Blue Shield: a Complaint filed in Wisconsin

The insurers flagged by CHLPI and its state partners have routinely denied coverage for HIV medications or limited access to needed medications through prohibitively high cost sharing plans. “Unaffordable cost sharing is just as much a barrier to care as outright refusal to cover medications,” says Greenwald. “Left unchecked, these practices will drive individuals out of the health insurance market, leaving them once again without meaningful access to care. We need to make sure that doesn’t happen.”

In addition to filing the OCR Complaints, the campaign has also launched an education and media initiative to increase public pressure on federal and state government regulators and insurers via social media, traditional press, and additional outreach activities. CHLPI and its state partners are working to ensure that people living with HIV and their allies understand the patterns of discrimination found in their local insurance markets and how to advocate for an end to health insurance discrimination.

Andrea Weddle, Executive Director of the HIV Medicine Association, supports the campaign, adding “Health and social services providers, advocates, and individuals living with HIV should be proactive about raising their voices, and using tools like complaint letters to challenge health plan policies that discriminate against individuals living with HIV. These actions are critical to ensure the enforcement of the ACA's non-discrimination protections.”

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[The Center for Health Law and Policy Innovation of Harvard Law School](#) (CHLPI) advocates for legal, regulatory, and policy reforms to improve the health of underserved populations, with a focus on the needs of low-income people living with chronic illnesses. CHLPI works to expand access to high-quality healthcare; to reduce health disparities; to develop community advocacy capacity; and to promote more equitable and effective healthcare systems. CHLPI is a clinical teaching program of Harvard Law School and mentors students to become skilled, innovative, and thoughtful practitioners as well as leaders in health and public health law and policy.