Executive Summary

ICER Analyses Based on the QALY Violate Disability Nondiscrimination Law

BACKGROUND

Many health care payers rely on the use of the Quality-Adjusted Life Year ("QALY") in their formulary and utilization management decisionmaking. The QALY is a metric that, in theory, measures the degree to which a drug or therapy extends life and improves quality of life. It is used to develop guidelines on the economic “value” of a given pharmaceutical, which then informs a payer’s decision of whether to cover such drug and, if so, under what terms. The problem is that the QALY relies on a set of discriminatory assumptions that devalue life with a disability, disadvantaging people with disabilities by blocking or limiting access to critical treatments.

A report recently commissioned by the Institute for Clinical and Economic Review ("ICER") asserts that the use of QALY “poses absolutely no risk of discrimination against any patient group.” The Disability Rights Education and Defense Fund ("DREDF") strongly disagrees with this conclusion.

This paper challenges the factual and legal assumptions that the ICER report relies on, and it explains how the use of the QALY, even in tandem with alternative measures, violates disability nondiscrimination law.

KEY FINDINGS

- Because the QALY relies on subjective assessments of quality of life, it incorporates discriminatory assumptions that devalue life with a disability.

- Pharmaceutical analyses that use the QALY undervalue treatments that people with disabilities (who are perceived to have a lower quality of life) need.

- The ICER report relies on a shallow and incorrect analysis of disability nondiscrimination law. It cites case precedent that is currently considered erroneous, irrelevant, or outdated, and it fails to adequately analyze the impact the QALY has on disabled people.

- The use of the QALY denies people with disabilities meaningful access to health care benefits, in violation of federal disability rights laws.

KEY RECOMMENDATIONS

- Health care payers should immediately discontinue the use of the QALY in pharmaceutical decisionmaking.

- Alternative metrics such as the Health Years in Total ("HYT") and Efficiency Frontier ("EF") should be researched further.