

United States Senate

WASHINGTON, DC 20510

September 21, 2010

Secretary Kathleen Sebelius
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Sebelius:

As you work to implement insurance provisions included in the historic Affordable Care Act (ACA), we urge you to clarify rules allowing stand-alone pediatric dental coverage to operate outside the Exchanges in the individual and small group markets similar to its treatment inside the Exchanges. We also ask that you clarify certain aspects of the pediatric dental benefit inside the exchange to ensure its administration is consistent with the relevant provisions of ACA. These clarifications would be consistent with the intent of our amendment adopted by the Senate Finance Committee.

ACA will vastly improve children's oral health through a number of important provisions. Defining the "essential health benefits package (EHBP)" to include coverage of oral health services for children is particularly important in that regard. The law allows stand-alone dental benefits inside the Exchanges to qualify as meeting the dental component of the EHBP. However, outside the Exchanges, in the individual and small group markets, ACA is less clear. Although our amendment was clearly intended to allow stand-alone dental benefits both inside and outside the Exchanges, we are concerned that the language of the law could be interpreted to allow only medical plans to cover the dental component of the EHBP outside the Exchange.

Today, 97% of Americans with dental coverage receive that coverage through stand-alone oral health policies, with benefits separate from traditional medical coverage. Congress intended, through our amendment adopted by the Senate Finance Committee, to recognize this fact and allow for separate pediatric dental coverage, both inside and outside the Exchanges. Our amendment also required that plans offering the essential pediatric benefit comply with any relevant consumer protections for that benefit.

Disallowing the separate offer of dental benefits outside the Exchanges would result in the disruption of dental coverage provided today to 43.7 million employees and dependents through 1.65 million small businesses (with fewer than 100 employees). In 2014 some 22.9 million children would be removed from their parents' existing dental coverage to have their oral health services provided instead by a medical carrier.

Additionally, within the Exchanges, some provisions were enacted in a manner that, under some interpretations, could be inconsistent with the intent of our amendment, raising some questions that should be clarified about cost-sharing, premium subsidies, and the treatment of applicable consumer protections.

We urge you to 1) clarify that outside the Exchanges (in the individual and small group markets), a stand-alone dental plan offering required pediatric dental benefits that comply with essential benefits requirements and provisions of Title I that are relevant to the scope of stand-alone pediatric dental coverage, together with a health plan offering all other required benefits except pediatric dental, shall meet the essential benefits package and the individual mandate; 2) clarify that cost-sharing limits and cost-sharing assistance apply, relevant to the scope of stand-alone pediatric dental coverage, to stand-alone plans offering the essential pediatric dental benefit inside the Exchanges; 3) clarify that inside and outside the Exchanges, the presence of one dental plan does not obviate the requirement for all other health plans to offer the essential pediatric dental benefit. Our intent is to ensure robust competition that reflects a balance of options for consumers, including an option that a stand-alone dental plan offering required pediatric dental benefits together with a health plan offering all other required benefits except pediatric dental meets the essential benefits package inside the Exchange.

We ask for your help in closing the gap in these areas between the provisions adopted by the Senate Finance Committee and the possible interpretations of statutory language to ensure the continuity of coverage and care envisioned by ACA. We especially urge you to ensure that as in the Exchanges, stand-alone dental coverage outside the Exchanges in the individual and small group markets be allowed to count toward fulfillment of the EHBP, together with a qualifying medical plan covering all other medical benefits. ACA kept its promise to ensure no one would be forced to give up his or her doctor – this promise is equally important for patients and their dentists, too.

Sincerely,



Debbie Stabenow
United States Senator



Blanche L. Lincoln
United States Senator