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OF THE  
UNITED STATES OF AMERICA

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October 11, 2011

The Honorable Kathleen Sebelius  
Secretary, U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Secretary Sebelius:

Over 170 million Americans obtain health care coverage through their employers. Our member companies want a health care system in which quality health care is readily available at an affordable price, a goal central to the Affordable Care Act. To this end, we are concerned about a particular provision contained in the health reform law, the Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010 (“PPACA”), which unless clarified will impede these goals. Unless this drafting error is corrected, 1.65 million small businesses (defined as those businesses with fewer than 100 employees) and their 43.7 million employees and dependents<sup>1</sup> could have their current dental coverage disrupted. This disruption will not only undermine the promise made to the American people, that if you like your coverage you will be able to keep it, but will result in additional unnecessary confusion and administrative paperwork.

## OVERVIEW

The PPACA states that qualified health plans (QHP) offered in the exchange as well as those plans offered in the small group and individual market outside the exchanges must offer coverage for “pediatric oral services” as part of the “Essential Health Benefits Package” (EHBP). In recognition of the current insurance structure where medical and health services coverage and dental services are typically covered and offered under separate policies, the law specifically allows in the exchanges for separate standalone dental policies to be paired with medical plans to meet these EHBP coverage requirements. However, PPACA does not explicitly permit this pairing outside the exchanges; there is no similar provision that indicates standalone dental policies offered *outside* the exchanges can be paired with medical plans in the small group and individual markets that do not provide pediatric oral services. If not corrected, this inadvertent drafting error will effectively prevent standalone dental plans outside the exchanges from providing these benefits – limiting choice and taking valued coverage away from millions of Americans. Failure to allow these separate dental and medical plans to combine outside the exchanges to meet the EHBP requirements could result in 22.9 million children being removed from their parents’ existing dental coverage.

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<sup>1</sup> Estimates of population with dental benefits in the private market are derived from several data sources, including “NADP/DDPA 2009 Dental Benefits Joint Report: Enrollment”; “NADP Consumer Survey” July 2009; “2009 Census Data” U.S. Census Bureau; “Employment Size of Employer and Nonemployer Firms, 2008” Statistics of U.S. Businesses, U.S. Census Bureau

Currently, 98%<sup>2</sup> of dental policies are sold separately from medical plans. Without a regulatory clarification that permits separate dental policies to be offered outside of exchanges in conjunction with medical health plans to satisfy the EHBP “pediatric oral services” requirement, the current dental insurance structure and options available to small businesses will be disrupted. In this challenging economy, the last thing small businesses need is further confusion about their benefits structure. Currently, small businesses are able to choose from a variety of separate dental policies and that should not change. While many small businesses may consider using exchanges for their medical coverage, they may still choose to keep supplemental dental coverage outside of the exchanges. Therefore, it is critical to continue to permit standalone dental coverage outside of the exchange to be paired with medical plans to meet the EHBP coverage requirements, just as these plans can be paired inside the exchanges.

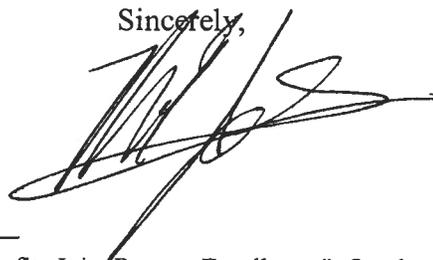
## RECOMMENDATIONS

- The current insurance structure of separate medical and dental policies should continue outside of exchanges. This allows for greater choices available to small businesses and keeps President Obama’s promise that PPACA will not force anybody to change their benefits if they like them.
- As the Secretary of the Department of Health and Human Services, you have the authority to clarify that separate dental coverage can be offered outside the exchanges in upcoming regulations, and that QHPs in the exchange and small group and individual health plans outside the exchange can sell a Medical-Only option that meets the EHBP for all but the essential pediatric oral services. Under PPACA 1302(b)(2), the Department must “ensure that the scope of the EHBP is equal to the scope of benefits provided under a typical employer plan.” Clearly, this requirement is violated if every health insurance plan outside of exchanges was required to include “pediatric oral services” as 98% of current dental benefits are provided as separate plans from medical.
- Private dental policies (outside of exchanges) meeting the “pediatric oral services” required in the EHBP should be permitted to be paired with QHPS that do not offer dental coverage inside the exchanges.

## CONCLUSION

We urge you to provide clarification that indicates separate dental policies offered outside of exchanges can be paired with medical policies to meet EHBP “pediatric oral services,” just as separate dental plans offered in the exchanges can be joined with medical policies in the exchange to meet the EHBP requirements. Small businesses must be able to provide their current dental coverage to employees outside of exchanges. We hope that with our comments the Department will make the necessary clarification to improve the small group and individual marketplace outside of exchanges, as we have suggested. We look forward to working with you to protect the fundamental goals of health reform that we jointly support.

Sincerely,



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<sup>2</sup> “NADP/DDPA 2010 Dental Benefits Joint Report: Enrollment”, October 2010