



December 31 2012

The Honorable Kathleen Sebelius
U.S. Department of Health and Human Services
Marilyn Tavenner
Centers for Medicare & Medicaid Services
Attention: **CMS-9964-P**
P.O. Box 8010
Baltimore, MD 21244-8010
Sent electronically via www.regulations.gov

Dear Secretary Sebelius and Acting Administrator Tavenner:

The National Association of Dental Plans (NADP) appreciates the opportunity to provide comments on the proposed rule **CMS 9964-P: Notice of Benefit and Payment Parameter for 2014** (Proposed Rule) published by HHS in the Federal Register on November 30, 2012. In these comments, NADP will address a number of areas covered by the Proposed Rule, while providing three recommendations:

1. Ensuring consumers optimal allocation of cost sharing assistance by allocating subsidies to the dental premium prior to the medical premium.
2. Market reforms should not be applied to the allocations of stand-alone dental premiums to pediatric dental coverage.
3. Allow employee selection of stand-alone dental plans¹ in FF-SHOP at both the high and low actuarial values set out in the EHB proposed rule.

ADVANCE TAX CREDITS

The Affordable Care Act (ACA) provides sliding scale tax credits (credits) to subsidize the premium costs of health benefits for individuals between 133 percent and 400 percent of the Federal Poverty Level (FPL) to make health insurance more affordable. These credits can only be used to purchase health insurance containing the Essential Health Benefits (EHB) package through the American Health Benefits Exchange (Exchange).

¹ The ACA and the proposed rules use the term “stand-alone dental plan” to mean a “separate dental policy.” A “separate dental policy” is a separate policy of coverage whether from a carrier that is affiliated with a medical plan or a “stand-alone.” carrier that is not affiliated with a medical plan.

OFFICERS & DIRECTORS

Chair

FORREST FLINT
HealthPartners, Inc.
Minneapolis, MN

Vice Chair

CHRIS SWANKER
Guardian Life Insurance
Company of America
Bethlehem, PA

Secretary

THERESA McCONEGHEY
Principal Financial Group
Des Moines, IA

Treasurer

KIRK E. ANDREWS
United Healthcare Dental
Santa Ana, CA

JEFF ALBUM

Delta Dental of
CA, NY, PA & Affiliates
San Francisco, CA

CHARLES BRODY

Dominion Dental Services, Inc.
Alexandria, VA

MARK COYNE

PPO USA, a Division of GEHA
Lee's Summit, MO

FRED HOROWITZ, DMD

Nevada Dental Benefits
Las Vegas, NV

FRED SHARPE, DDS

Avesis Third Party Admin.
Owings Mills, MD

Immediate Past Chair

KAREN GUSTIN
Ameritas Life Insurance Corp.
Lincoln, NE

Staff Liaison

EVELYN F. IRELAND, CAE
National Association
of Dental Plans
Dallas, TX

National Association of Dental Plans

12700 Park Central Drive • Suite 400 • Dallas, Texas 75251

972.458.6998 • 972.458.2258 [fax]

nadp.org

“the representative and recognized resource of the dental benefits industry”



According to analysis by the Congressional Budget Office during passage of ACA, only individuals or families under 150 percent of poverty will have the vast majority of the cost of health coverage subsidized, i.e. those with incomes between 133 percent and 150 percent of poverty will pay 3 to 4% of their income for health insurance. Their advance premium tax credits will subsidize 92 to 88 percent of the cost of their health coverage. Between 150 percent of poverty and 400 percent of poverty, premium subsidies begin at 88 percent and decline to 27 percent of premium. Using the Kaiser Health Reform [Subsidy Calculator](#), the highest dollar amount to be provided as a subsidy to a family of four for a health plan in a medium cost area where estimated annual premium is \$12,130 will be \$11,193. Using the same scenario the lowest advance tax credits for a family of 4 at 400 percent of poverty will be \$3,233. Thus, a family’s (or individual’s) credits will be never exceed the premium of the selected QHP. The advance premium tax credits will be combined with some level of family (or individual) contribution to meet the full premium payment in the Exchange.

ACA specifically provides premiums allocable to the purchase of “pediatric oral services” under a separate dental policy are part of the calculation for premium tax credits. The Proposed Rule requires in Sec. 155.340(e) that premium tax subsidies be applied first to the medical premium of a QHP (or QHP’s) purchased by a family with any remaining subsidy applied to a separate pediatric dental policy. As subsidies are tied to the second lowest cost policy within the silver level of the Exchange, the proposed system of allocation will never result in funding of the premium of a separate dental plan purchased by a consumer for their pediatric dental benefit. Following are two examples of scenarios for subsidized family coverage at the low and high end of the scale for advance premium tax credits that illustrate consumers’ dental premiums will never receive subsidies.

FIGURE 1: Family of 4 at 133% of FPL Purchasing a QHP and a Separate Dental Plan

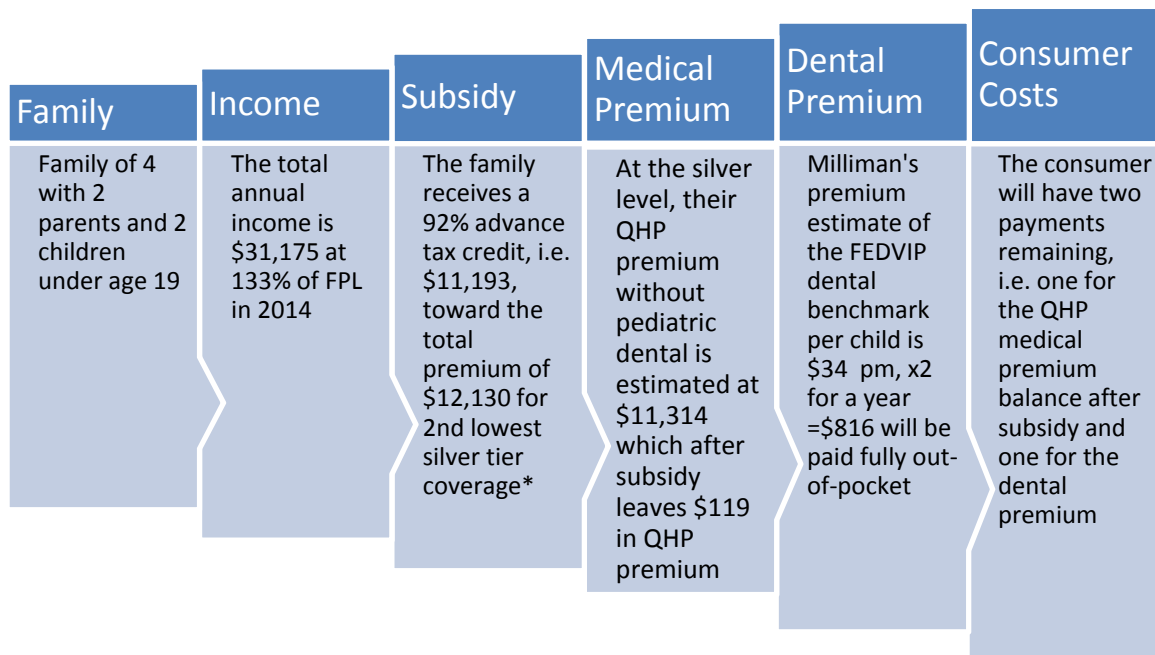


FIGURE 2: Family of 4 at 400% FPL Purchasing a QHP and a Separate Dental Plan

Family	Income	Subsidy	Medical Premium	Dental Premium	Consumer Costs
Family of 4 with 2 parents and 2 children under age 19	The total annual income is \$93,650 which is 400% FPL in 2014	The family receives a 27% advance tax credit, i.e. \$3,233 toward the total premium of \$12,130 for 2nd lowest silver tier coverage*	At the silver level, their QHP premium without pediatric dental is estimated at \$11,314 which after subsidy leaves \$8,897 in QHP premium	Milliman's premium estimate of the FEDVIP dental benchmark per child is \$34 pm, x2 for a year = \$816 will be paid fully out-of-pocket	The consumer will have two payments remaining, i.e. one for the QHP medical premium balance after subsidy and one for dental premium

*For purposes of this analysis, we are presuming that the Kaiser Health Reform Subsidy Estimator of \$12,130 for a reference QHP includes all EHB and therefore covers pediatric dental services. Utilizing the Milliman estimate of premium (\$34 per child per month) for the FEDVIP dental benchmark with a \$1000 OOP maximum for the cost of separate pediatric dental coverage, we deduct \$816 from the QHP premium to obtain the estimated QHP premium without pediatric dental coverage.

Allowing tax credits to be allocated to the dental premium first mitigates additional costs to develop individual payment infrastructures by separate dental plans which could further increase premium costs. It is also the most consumer-friendly as consumers would have a single bill from their QHP for the portion of the premium not subsidized. As the pediatric dental premium is diminutive compared to an individual's medical premium, the largest proportion of the subsidy always goes toward the medical premium (see Figure 3 on page 4).

National Association of Dental Plans

12700 Park Central Drive • Suite 400 • Dallas, Texas 75251

972.458.6998 • 972.458.2258 [fax]



FIGURE 3: Family of 4 at 400% FPL Purchasing a QHP and a Separate Dental Plan—Subsidy Allocated to Dental Premium First

Family	Income	Subsidy	Dental Premium	Medical Premium	Consumer Costs
Family of 4 with 2 parents and 2 children under age 19	The total annual income is \$93,650 which is 400% FPL in 2014	The family receives a 27% advance tax credit, i.e. \$3,233 toward the total premium of \$12,130 for 2nd lowest silver tier coverage*	Milliman's premium estimate of the FEDVIP dental benchmark per child is \$34 pm, x2 for a year = \$816. Subsidy would cover premium.	At the silver level, their QHP premium without pediatric dental is estimated at \$11,314. With balance of subsidy (\$2417) applied, their remaining medical premium is \$9,713	With the subsidy allocated to dental first, the consumer would have a single bill remaining from medical premium

RECOMMENDATION 1

The application of advance premium tax credits first to QHPs selected by a consumer is proposed without any stated reasoning. Given that even the smallest advance premium tax credits would, in almost every instance, cover the full cost of a separately selected dental plan for pediatric oral services; simplicity for the consumer should prevail in allocating the tax credits to selected stand-alone dental coverage first. NADP recommends the federal government first allocate advance tax credits to separate dental plans covering “pediatric oral services” and allocate the balance to the QHP providing medical coverage.

SETTING CONSISTENT STANDARDS FOR HIPAA EXCEPTED BENEFITS

In § 156.470(b), the Proposed Rule provides standards for identifying expected premiums for stand-alone dental plans relative to pediatric dental coverage. The expected premium will be used to determine premium advance tax credits. T, the advance payment of that credit, and is available if an individual enrolls in both a QHP and a stand-alone dental plan. In the commentary the method proposed for stand-alone dental plans was selected “because issuers of stand-alone dental plans are exempt from certain standards in the proposed Market Reform Rule, including § 147.102 and 156.80 (related to fair health insurance premiums and the single risk pool), and as a result, are not required to develop rates under the same limitations that apply to issuers of QHPs in the individual and small group markets.... We anticipate that issuers of stand-alone dental plans may take into account additional rating factors, up to

National Association of Dental Plans

12700 Park Central Drive • Suite 400 • Dallas, Texas 75251

972.458.6998 • 972.458.2258 [fax]

and including medical underwriting, which would make the completion and submission of final premium rating methodologies to the Exchange problematic.”

Proposed § 156.470(e) requires that issuers of stand-alone dental plans submit to Exchanges annually for approval an actuarial memorandum with a detailed description of the methods and specific basis used to identify expected premiums. The actuarial memo is required to which demonstrate the expected premiums meet the standards proposed in § 156.470(d). The standards in subsection (d) apply the market reform rules standards from which subsection (b) notes that stand alone dental plans are exempt. The market reform rules applied to the calculation of expected premium for pediatric dental services provided by stand- alone dental plans include fair health insurance premium standards described at 45 CFR 147.102, the single risk pool standards described at 45 CFR 156.80; and the same premium rate standards described at 45 CFR 156.255. The only adjustment to these standards is the adaptation for the age definition for pediatric. The justification for application of these standards to the methodology for identifying expected premiums is “...because we believe that Congress intended that premium tax credits be available based on the market reforms embodied in the Affordable Care Act.”

The provisions of the ACA specifically exempt stand-alone dental plans from market reforms developed for health as acknowledged by HHS in this rule and clarified in a response by Secretary Sebelius. HHS citation of Congressional intent as a basis for the Proposed Rule in applying market reforms is a clear contradiction to specific statutory provisions. Further, dental plans do not utilize medical underwriting so the application of the provisions is not needed.

RECOMMENDATION 2

Market reforms proposed in § 156.470(d) should not be applied to the development of allocations of stand-alone dental premiums to pediatric dental coverage.

SETTING EXCHANGE USER FEES

Circular No. A-25R establishes federal policy regarding user fees, and specifies that a user charge will be assessed against each identifiable recipient for special benefits derived from federal activities beyond those received by the general public. Based on section 1311(d)(5)(A) of the Affordable Care Act and Circular No. A-25, the rules propose that HHS collect a user fee from participating issuers (as defined in §156.50(a)) to support the operation of Federally-facilitated Exchanges. Stand-alone dental plans are participating issuers under §156.50(a).

The proposed methodology applies a 3.5% user fee to the monthly premium of any policy issued through a state FFE. This methodology appropriately recognizes the smaller premium of a separate dental policy.

FACILITATING CHOICE OF QHP AND SEPARATE DENTAL PLANS IN THE SHOP

The Proposed Rule does not allow Federally-facilitated SHOPS to offer a single QHP option to employers but focus instead on employee choice. It is proposed that in the FF-SHOPS, employers will choose a level

National Association of Dental Plans

12700 Park Central Drive • Suite 400 • Dallas, Texas 75251

972.458.6998 • 972.458.2258 [fax]



of coverage (bronze, silver, gold, or platinum) and a contribution, and employees can then choose any QHP at that level. The EHB Proposed Rule provides for stand-alone dental coverage to be offered on a high/low basis with actuarial values of 75%+2% and 85%+2%. These values do not align with the levels of coverage for QHPs. As some of the options within a metal level on the SHOP are likely not to include pediatric dental coverage, either level of stand-alone dental coverage should be available to employees along with the QHP level or the employer should also be able to designate the high or low level of stand-alone dental coverage.

RECOMMENDATION 3

NADP recommends that at any level of coverage selected by an employer (bronze, silver, gold, or platinum), employees be allowed to select among stand-alone dental plans offered at either the high or low actuarial value specified in the EHB rules.

NADP is appreciative for the opportunity to provide comments on various aspects of the Proposed Rule, including the applicability of tax credits on dental plans, equitable treatment of dental plans, and dental plans related to user fees and the FF SHOP. NADP looks forward to future discussions on the critical issues we addressed above, as well as implementation of the ACA overall to the dental benefits industry. Questions regarding our comments should be directed to Kris Hathaway, Director of Government Relations at khathaway@nadp.org or 972 458-6998 x111. Again, thank you for your consideration.

Sincerely,



Evelyn F. Ireland, CAE
Executive Director
National Association of Dental Plans

NADP DESCRIPTION

NADP is the largest non-profit trade association focused exclusively on the dental benefits industry, i.e. dental PPOs, dental HMOs, discount dental plans and dental indemnity products. NADP's members provide dental benefits to over 92 percent of the 176 million Americans with dental benefits. Our members include the entire spectrum of dental carriers: companies that provide both medical and dental coverage, companies that provide only dental coverage, major national carriers, regional, and single state companies, as well as companies organized as non-profit plans.

National Association of Dental Plans

12700 Park Central Drive • Suite 400 • Dallas, Texas 75251

972.458.6998 • 972.458.2258 [fax]

