



February 28, 2013

Martique Jones, Deputy Director  
Regulations Development Group  
Office of Strategic Operations and Regulatory Affairs  
Submitted via email: OIRA\_submission@omb.eop.gov

RE: CMS-10438, CMS-10439 and CMS-10440

Dear Deputy Director Jones,

The National Association of Dental Plans (NADP) appreciates the opportunity to provide comments on the Data Collection to Support Eligibility Determinations and Enrollment for Small Businesses and Employees in the Small Business Health Options Program (SHOP) and for Individuals in Health Insurance Marketplaces released by CMS on January 29, 2013. In this letter, NADP is providing comments on a number of areas addressed in the Employer and Employee Applications for the SHOP and the Individual Application for Exchange Marketplaces that are missing or need clarification for the administration of dental benefits.

### **ELIGIBILITY DETERMINATIONS AND ENROLLMENT FOR SMALL BUSINESSES IN THE SHOP (CMS-10439)**

Consistent with the Affordable Care Act (ACA), HHS has developed a single, streamlined form that *employers* will use to apply to the SHOP. For dental plans that qualify to offer pediatric or optional adult and other dependent dental coverage in Exchanges, there are some key elements missing from the proposed model application:

#### **EMPLOYER OPTIONS REGARDING DENTAL BENEFITS**

ACA section 1311(d)(2)(B)(ii) specifically allows for separate dental policies to provide coverage for the required pediatric oral health services in the Exchange. This provision within Exchanges acknowledged that about 99 percent of dental benefits are provided separately from medical coverage through stand-alone dental plans, which cover meaningful benefits and provide access to robust provider networks and cost efficiencies gained from experience management.

Small businesses must be made aware of all their options for determining coverage for their employees at the outset of the application process. Apart from those businesses that may wish to apply for

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separate dental coverage inside the SHOP, many small businesses will be applying for the SHOP while maintaining separate dental coverage outside the SHOP. NADP's "2011 Purchaser Survey" found that 40% of small employers are likely to purchase health benefits through Exchanges, yet 80% of small employers are likely to continue dental and other supplemental coverage outside of Exchanges. Since pediatric dental benefits are part of the EHB package and may be offered separately from health coverage, it is critical for the SHOP to communicate this possible option for employers as well as learn from employees what coverage they currently have. Further, the Exchange will need to discern whether the employer will continue to offer dental coverage, if that dental coverage is provided to dependents and whether the pediatric dental portion meets EHB. With this information, an Exchange can determine what health coverage options to offer to employers and their employees.

NOTE: In earlier drafts of the application, the inclusion of basic enrollment questions made the offer of stand-alone dental coverage evident. The narrowing of the application to simple eligibility does not alert the employer to the potential overlap of dental coverage for employees.

**Recommendation 1:** The following question could be added to the detailed application to determine if pediatric dental coverage is already offered. It could be included as a coordination of benefits information section in Part II or as an Eligibility Question in Part III. It also needs to be included in the short application, perhaps in Step 1 with the check box for "Yes, I'm offering insurance to all full-time employees." (NOTE: "health" should be added before insurance in this Step both in the instruction at top and in this attestation.)

Part II Get Started; Section A. Employer Information; additional subsection 6:

6. Coordination of Benefits

Do you plan to maintain supplemental dental insurance from a plan outside the SHOP for employees at the same time as offering medical coverage through the SHOP? Yes/No

- i. Yes (if selected, display "1 & 2")
  - 1. Does the dental coverage include pediatric dental benefits that are compliant with essential health benefit requirements?
  - 2. Carrier: \_\_\_\_\_
- ii. No (If selected, continue)

**COVERAGE OF OUT-OF-STATE ENROLLEES**

The list of questions in the SHOP Online Application does not prompt the applicant to indicate whether they plan to cover out-of-state enrollees or enrollees at another worksite. State insurance laws typically provide that at least a majority of employees be located at the home office location for that location to be used for rating purposes. If the majority of employees reside or work at other locations, a composite rate is built from the variety of locations.

Since geography is one of the limited rating factors that can be used for rating in the SHOP, NADP recommends that the SHOP Exchange develop a process for multi-location rating. This could be as simple as applying the geographically appropriate rates to employees at multiple locations in the state. If geographically appropriate rates are not applied, an insurer may collect more or less premium than is needed to service the group. A group could be over or under charged depending on their employees'



locations. An insurer could sustain significant losses or high profits on the group without this information.

**Recommendation 2:** If a majority of employees are not at the location in the application or in the Exchange's state, the solution could be referring the employer to the selected issuer to develop a composite rate from the appropriate locations. The following questions should be added to the model application to facilitate this process:

2. Are the majority of your employees located in this state? Yes/No
  - a. If no, are you seeking to cover all employees through this state's Exchange? Yes/No
  - b. If yes, you will be referred to the issuer for development of rates appropriate to your group.
3. Are your employees located at more than one location in this state? Yes/No
  - a. If no, proceed with application.
  - b. If yes, please list other locations in your application and code your employee list by the relevant location. (Locations should be numbered so the number can be used to identify employee location.)

#### STANDARD INDUSTRY CLASSIFICATION (SIC) CODE

Exchange regulation acknowledges that certain stand-alone dental plans could be HIPAA excepted benefits and exempt from certain market reform standards, including rating factors. It is anticipated that some dental carriers may take into account additional rating factors. When entering plan templates with the FFE SHOP, carriers may submit guaranteed and non-guaranteed rates for separate dental policies. Although employees will be directed to contact the issuer if interested in a non-guaranteed plan, it is very unlikely that the employee will be able to report the business's SIC Code with which to perform rating. Thus, it should be collected on the employer application.

**Recommendation 3:** NADP recommends that the employer application include the business' Standard Industry Classification (SIC) code.

#### PRIOR COVERAGE

Utilization is significantly different in groups that have not had prior dental coverage. For the reasons noted above under SIC Code, it is critical to determine on the employer application if the group has had prior dental coverage as it is anticipated that the employee application will only determine if there are current dental benefits for the purposes of coordination.

**Recommendation 3:** NADP recommends that the employer application (both short and long form) include an indication of whether the employer has offered dental coverage to employees.

#### ELIGIBILITY DETERMINATIONS AND ENROLLMENT FOR EMPLOYEES IN THE SHOP (CMS-10438)

Consistent with the Affordable Care Act (ACA), HHS has developed a single, streamlined form that *employees* will use to apply to the SHOP. There are some key elements missing from the proposed model application that we review below.

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**COORDINATION OF BENEFITS**

Various parts of the employee application request information related to coordination of medical benefits without the mention of potential dental benefits that may be maintained apart from medical benefits.

**Recommendation 4:** NADP recommends that the following questions regarding dental coordination of benefits be added.

Part III Information about you, the employee; Section 5; additional question:

- c. Will you have other dental insurance at the same time as this coverage? Yes/no
  - i. Yes (if selected, display "1")
    - 1. Carrier: \_\_\_\_\_
  - ii. No (If selected, continue to section IV ["Dependents"])

Part IV Dependents; Section 2; additional question after "n":

- o. Will this dependent have other dental insurance at the same time as this coverage? Yes/no
  - iii. Yes (if selected, display "1")
    - 1. Carrier: \_\_\_\_\_
  - iv. No (If selected, continue)

## ELIGIBILITY DETERMINATIONS FOR INSURANCE AFFORDABILITY PROGRAMS AND ENROLLMENT THROUGH INSURANCE EXCHANGES (CMS-10440)

The application for the AHBE focuses largely on the detailed information needed to determine eligibility for Advance Premium Tax Credits (APTC). It is not clear from our review of the published document, how an individual will be informed that they 1) have the option of dental benefits from a stand-alone dental plan (SADP) for children and themselves and 2) can receive an APTC for a SADP covering individuals in their household up to age 19. Section 21 on Plan Enrollment simply says select health and/or dental. Given that applicants can apply for supplemental dental in addition to required pediatric dental services, it seems that this choice should be noted in "Section V. Tell us how many people are applying for health insurance."

**Recommendation 4:** NADP recommends that the following question with regard to application for insurance be added in both Section V and Section XXIII for those not applying for financial assistance:

Section V and XXIII; modify Question 1 as follows and add a check box for each person as to health and dental on question 2.

- 1. How many people in your family and household want health and/or dental insurance? Include yourself.
  - a. Health \_\_\_\_\_
  - b. Dental \_\_\_\_\_

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**IN GENERAL** – NADP is concerned that the limitation of the application to simple eligibility leaves the explanation of the coverage that is available through the Exchanges to an enrollment process that has not been vetted with stakeholders. It is important that consumers know they have the option to select a medical plan without pediatric dental services and cover the members of their household that should receive pediatric dental services under a SADP. Without reviewing the process or seeing the steps of the shopping experience, it is difficult to recommend language for inclusion. However, it should be clear to consumers that they should carefully review the deductibles, out-of-pocket limits, and coinsurance applied to pediatric oral services whether included in a medical plan or in a stand-alone dental plan.

Again, NADP is appreciative of the opportunity to provide comments on the SHOP and individual model applications and looks forward to future discussions. Questions regarding our comments should be directed to Kris Hathaway, Director of Government Relations at [khathaway@nadp.org](mailto: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.

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