



June 3, 2013

Acting Commissioner Daniel I. Werfel  
CC:PA:LPD:PR (REG-118315-12)  
Internal Revenue Service  
P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044  
Sent electronically via [www.regulations.gov](http://www.regulations.gov)

Dear Acting Commissioner Werfel,

The National Association of Dental Plans (NADP) appreciates the opportunity to provide comments on the proposed rule IRS REG 118315-12: Health Insurance Providers Fee (Proposed Rule) published by IRS in the Federal Register on March 4, 2013.

As stated in a prior [NADP memo](#) to your agency, there are good reasons to believe the fee should not apply to dental benefits to be consistent to the Patient Protection and Affordable Care Act (ACA). In light of the proposed rule's declaration that the assessment fee will apply to carriers offering limited scope dental benefits, NADP recommends the assessment fee only be applied to those premiums attributable to the pediatric dental coverage as part of the Essential Health Benefit (EHB) package in the small group and individual market.

The rationale for the Health Insurance Providers Fee was in part that the ACA would increase the number of Americans enrolled in health plans and therefore health premiums; however, the ACA will not lead to a similar increase in dental premiums due to a number of factors.

The most significant factor influencing the number of Americans seeking health coverage—the individual mandate—requires individuals to maintain “minimum essential coverage,” which is defined by statute as government sponsored programs, employer-sponsored plans, plans in the individual market, grandfathered health plans and other health benefits coverage as HHS recognizes. While the ACA requires pediatric dental services as part of the Essential Health Benefit package offered in the small group and individual market on and off Exchanges, this is a limited segment of the

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overall health market defined as minimum essential coverage. HHS guidance and IRS bulletins illustrate that individuals will not be required to show proof of obtaining the pediatric dental portion of the EHB and will not be penalized for not maintaining that coverage.

The availability of subsidies for purchasing health coverage will also motivate consumers to purchase health coverage through Exchanges. However, IRS has indicated that the cost of a standalone pediatric dental policy will not be included in the base calculation of the total cost of the benchmark coverage used to allocate tax credits which provide these subsidies. NADP with more than 30 organizations detailed this issue and urged reconsideration in a recent [letter](#) to your agency. Severely limiting the availability of tax assistance and subsidies to support the purchase of essential pediatric dental benefits reduces the likelihood consumers will have the means necessary to attain pediatric dental coverage.

Finally, the Federally-facilitated Marketplace (FFM), which will operate in 19 states (and likely 15 State-partnership Marketplaces and Management-plan Marketplaces), will not require the purchase of pediatric dental benefits. Currently there are only four State-based Marketplaces mandating the purchase of pediatric dental EHB by consumers covering children and young adults under age 19. This further dilutes the incentives consumers have to obtain pediatric dental coverage.

- **The assessment fee as applied will place an inequitable burden on dental plans that will not experience equivalent market growth to health plans and may in fact experience a net loss.**

Understandably, the cost of dental coverage is rated as the number one factor for consumers when considering the purchase of coverage<sup>1</sup>. Currently, employers offer dental benefits to their employees with the election to have their families covered. In 2014, child-only policies will be offered with the adults as additional coverage, and for families on tight budgets, parents may elect not to continue their own dental coverage. Based on consumer surveys, NADP has projected half of adults with employer-provided dental coverage in the small group market today, i.e. 11 million, would drop coverage if their dental coverage is separated from their children's coverage and their overall cost for health coverage increases \$300 annually. The cost<sup>2</sup> of pediatric dental coverage per child alone is expected to increase by half this amount for a typical dental PPO. The Pew Center on the States estimates 5.3 million children will be added to programs providing dental coverage—mostly in public programs, not commercial dental plans—and therefore the net loss in coverage and reduction in access to dental care could be significant<sup>3</sup>.

#### RECOMMENDATION:

Due to limited enrollment increases anticipated by ACA's requirement of pediatric dental services as part of EHB, NADP recommends the limited scope dental benefits included in the term health insurance for purposes of the fee refer only to the those premiums attributable to pediatric dental essential health benefits as part of the small group and individual market.

<sup>1</sup> NADP 2012 Consumer Survey, May 2012, Dallas, Texas. Ordering information at [www.nadp.org](http://www.nadp.org).

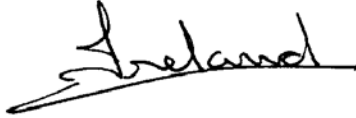
<sup>2</sup> Pediatric dental costs are impacted not only by the assessment fee, but also the application of no annual and lifetime maximums, out-of-pockets limits (for separate dental policies) and Marketplace fees.

<sup>3</sup> The Pew Center on the States: "The State of Children's Dental Health: Making Coverage Matter," Gehshan, Shelly, et al. May 2011.



NADP is appreciative for the opportunity to provide comments on these proposed rules. NADP looks forward to future discussions on the critical issues we addressed above. 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.

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