

May 9, 2013

The Honorable Jack Lew, Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Secretary Lew:

As organizations that work to improve health and health care for children, we write in regard to an issue important to children's health—the affordability of coverage for dental benefits under the Affordable Care Act. As detailed below, we urge Treasury to apply the premium tax credit provisions of the ACA such that dental benefits receive the same affordability support as other essential health benefits. And Treasury should assure that the treatment of separate dental plan premiums in computing premium credits is clearly stated in public documents.

Oral health is critical to children's overall wellbeing. Congress recognized as much when it included oral care for children as one of the essential health benefits specified in the ACA. Congress also intended that the purchase of the entire essential health benefits package be supported with premium tax credits. In a recent letter to Marilyn Tavenner, Acting Administrator of the Centers for Medicare and Medicaid Services, nine U.S. Senators noted the "intent of Congress to provide affordable benefits for families to access routine and necessary care, including pediatric oral health care."¹ Additionally, in a 2011 Senate colloquy, three Senators clarified that the law intends that "children receiving coverage through an exchange would have the same level of benefits and consumer protections, including all cost sharing and affordability protections, with respect to oral care. This holds true whether they received pediatric oral care coverage from a standalone dental plan or from a qualified health plan."²

Despite this Congressional intent, direct communications from Internal Revenue Service officials indicate that IRS plans to make premium tax credits available to support the purchase of stand-alone pediatric dental plans only in very limited circumstances. Many taxpayers' premium tax credits will be calculated with reference to the cost of a "benchmark" plan—often defined as the second-lowest cost silver plan that would cover the taxpayer's family. In many cases, however, a single benchmark plan will not provide coverage for an entire family for all of the essential health benefits (EHBs). Specifically, we expect that in many state exchanges, pediatric dental benefits will be offered through separate plans. When pediatric dental coverage is purchased through a separate plan, our understanding is that IRS intends to ignore the cost of a stand-alone dental plan when computing the cost of the second-lowest cost silver plan that would cover the taxpayer's family.

¹ Cardin, et al. [Letter to Marilyn Tavenner](#). March 19, 2013.

² Senator Stabenow (MI). "Affordable Care Act." *Congressional Record* 157: 144 (September 26, 2011).

We urge you to reverse this IRS policy and instead include the cost of a stand-alone dental plan in the total cost of benchmark coverage when stand-alone plans are the only dental benefits available to a family. This will allow premium tax credits to support the purchase of pediatric dental benefits just as they do for other essential benefits.

The Affordable Care Act allows the costs for stand-alone dental coverage to be included in the cost of benchmark coverage. Internal Revenue Code section 36B, paragraph (b)(3)(E), provides that “For purposes of determining the amount of any monthly premium,” a premium paid for a separately offered EHB dental benefit should be considered a premium payable for a qualified health plan. The law’s reference to “any” monthly premium must be interpreted to apply to the benchmark plan premium that determines a taxpayer’s premium credit amount. Without such a reading, some families would be required to pay more than their applicable percentage of income to purchase coverage for all the EHBs—this is not what Congress intended.

Further, regulations at [26 CFR 1.36B-3\(f\)\(3\)](#) seem to allow for the premium for more than one policy to be added together when computing the cost of the applicable benchmark plan if one plan will not cover a taxpayer’s entire family.³ Some families will need to purchase two or more policies to cover all of their members—a stand-alone dental plan and at least one other plan to cover the rest of the EHBs. In such situations, the premium for a stand-alone plan should be added to the premium for the rest of the family’s coverage to arrive at the appropriate benchmark cost. IRS officials, however, have stated verbally that they will not apply paragraph (f)(3) to stand-alone pediatric dental plan premiums. We urge Treasury and IRS to express this interpretation in writing and provide opportunity for public comment on this important policy choice.

Adding the cost of a stand-alone pediatric dental plan would raise the premium credit amount for many families, allowing them to afford dental care for their children. Getting preventive dental care and restorative services when needed will keep children healthier and will likely reduce health care costs over the lifespan. Without premium credits for stand-alone dental plans, many families will be tempted to forego dental coverage since there is no federal requirement that it be purchased in the exchanges when offered separately. This would represent an enormous missed opportunity to provide oral health services to children who need them and circumvent Congressional intent that pediatric dental benefits be included in the essential benefits that exchange enrollees will receive. As a result, children

³ *Silver level plan not covering a taxpayer's family.* If one or more silver level plans for family coverage offered through an Exchange do not cover all members of a taxpayer's coverage family under one policy (for example, because of the relationships within the family), the premium for the applicable benchmark plan determined under paragraphs (f)(1) and (f)(2) of this section may be the premium for a single policy or for more than one policy, whichever is the second lowest cost silver option.

would experience poorer health outcomes due to neglected oral health needs and families would incur higher out-of-pocket costs when seeking dental care for their children.

Treasury has an important role to play in supporting children's health by assuring that premium credits are applied as intended by the Affordable Care Act. Our organizations would be happy to meet with your staff to provide further details on how premium credits would impact dental care for children. Thank you for your consideration.

Sincerely,

American Academy of Pediatric Dentistry
American Association for Dental Research
American Dental Association
American Dental Education Association
American Dental Hygienists' Association
American Network of Oral Health Coalitions
Association of State and Territorial Dental Directors
Children Now
Children's Alliance
Children's Alliance of New Hampshire
Children's Defense Fund
Children's Dental Health Project
Community Catalyst
Delta Dental Plans Association
DentaQuest
Easter Seals
Families USA
Georgetown University Center for Children and Families
Health Action New Mexico
Hispanic Dental Association
Kansas Action for Children
Kentucky Oral Health Coalition
Maine Children's Alliance
Maine Dental Access Coalition
Maryland Dental Action Coalition
Milwaukee County Oral Health Coalition
National Assembly on School-Based Health Care
National Association of Dental Plans
National Health Law Program
New England Alliance for Children's Health
New Mexico Alliance for School-Based Health Care
Ohio Consumers for Health Coverage
Oral Health Access Council
Oral Health Florida

Oral Health Kansas, Inc.
Pew Children's Dental Campaign
Rhode Island KIDS COUNT
Southwest Women's Law Center
Texas Oral Health Coalition, Inc.
The Children's Partnership
The Los Angeles Trust for Children's Health
UHCAN Ohio
Virginia Oral Health Coalition
Voices for America's Children
Washington State Oral Health Coalition
Wisconsin Oral Health Coalition