



March 7, 2017

Patrick Conway, Acting Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
200 Independence Ave, S.W.  
Washington, DC 20201  
Sent via regulations.gov

RE: CMS-9929-P, Proposed Rule on Market Stabilization

Dear Administrator Conway,

The National Association of Dental Plans (NADP) appreciates the opportunity to provide comments on the proposed rule, "Patient Protection and Affordable Care Act; Market Stabilization," published in the Federal Register on February 17, 2017. NADP appreciates the goal of this regulation "to stabilize the Marketplace, provide more flexibility to states and insurers, and give patients access to more coverage options"<sup>1</sup> and we look forward to working with CMS to ensure similar outcomes for the dental benefits offered on Exchanges. The following comments reflect our thoughts on the Notice's implications to dental benefits offered as Standalone Dental Plans (SADPs) or embedded in Qualified Health Plans (QHPs).

#### **ACTUARIAL VALUE (§156.140)**

The proposed rule would amend the Actuarial Value (AV) levels to increase the de minimis variation from +/- 2 to -4/+2. The proposed rule does not specify similar changes to SADP high (85) and low (70) AV levels at \$156.150 and CMS staff have indicated on REGTAP calls that this would not apply to dental plans.

**Recommendation 1:** NADP recommends that for Plan Year 2019, CMS make the same de minimis adjustment for SADPs as is made for medical plans. As with medical coverage, Exchanges should seek to expand options and choice for separate dental coverage. Additionally, the expanded de minimis will provide regulatory flexibility for carriers as they develop products each year and avoid unnecessary refiling to meet very narrow AV levels. Due to the limited time between rule finalization and application deadlines to implement this change, we recommend CMS expand the SADP AV de minimis for Plan Year 2019.

<sup>1</sup> Centers for Medicare & Medicaid Services (CMS) Press Release: CMS Issues Proposed Rule to Increase Patients' Health Insurance Choices for 2018. <http://go.cms.gov/2l9kFSn>

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### ESSENTIAL COMMUNITY PROVIDERS (§ 156.235)

The proposed rule would reduce the current Essential Community Provider (ECP) contract requirement from 30 percent of ECPs in an area to 20 percent. In addition, the proposal would allow issuers to write-in ECPs as was done in prior years, as long as the ECPs that are written in apply to CMS for ECP status.

**Recommendation 2:** NADP supports the decreased contract percentage requirement and recommends CMS reconsider application of the ECP standard to dental plans.

This requirement was designed for medical providers where ECPs are more common than in the dental provider community. Many ECPs are overwhelmed by dental plan network solicitations and have become frustrated to the point of refusing to acknowledge or respond to communications. Thus, it can be difficult to demonstrate anything more than outreach to dental ECPs. Additionally, lists that CMS provides identifying ECPs offering dental services include errors and locations that only provide limited services (e.g. an examination by a dental hygienist or dentist services only available at certain limited times). This inflates the number of ECPs and makes the percentage that more difficult to achieve.

While dental plans have worked hard to increase networks with ECPs, the medical percentage remains a difficult target to achieve. There are few incentives for dental providers to apply and be listed as an ECP. Due to the very limited availability of dental services provided at ECPs, applying the medical ECP threshold to dental has added significant administrative burden with limited impact to carriers' networks or ability to assure meaningful access for underserved populations.

While we have appreciated the ability for dental plans to submit justification for not meeting the ECP ratio, these unique difficulties for dental plans in reaching the standard demand additional flexibility.

**Recommendation 3:** NADP supports the reinstatement of the write-in process and recommends CMS acceptance of a write-in not rely on provider applications. Providers are not subject to CMS regulation of issuers where the requirement to apply is established, and as noted above, are already overwhelmed by the outreach and activity surrounding the ECP process.

We appreciate the opportunity to provide our comments on the proposed rule as it relates to dental plans and look forward to future discussions. For any follow-up, please contact NADP Director of Government Relations, Eme Augustini at [EAugustini@nadp.org](mailto:EAugustini@nadp.org) or (972) 458-6998 x111.

Sincerely,



Evelyn Ireland, CAE  
Executive Director  
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## **NADP DESCRIPTION**

NADP is the largest non-profit trade association focused exclusively on the dental benefits industry, i.e. dental PPOs, dental HMOs, discount saving plans and dental indemnity products. NADP's members provide dental benefits to more than 92 percent of the 205 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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