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November 27, 2017

Seema Verma, Administrator  
Centers for Medicare and Medicaid Services  
200 Independence Ave., SW  
Washington, DC 20201  
Sent via [www.regulations.gov](http://www.regulations.gov)

RE: CMS-9930-P, Notice of Benefit and Payment Parameters for 2019

Dear Administrator Verma,

The National Association of Dental Plans (NADP) appreciates the opportunity to provide comments on the proposed Notice of Benefit and Payment Parameters for 2019 (NBPP) as published in the Federal Register on November 2, 2017. NADP appreciates the variety of issues addressed in the NBPP and is commenting on those areas that specifically impact our dental plan members.

NADP's comments reflect our thoughts on the Notice's implications to dental benefits offered as Stand Alone Dental Plans (SADP) or within Qualified Health Plans (QHP). These comments parallel the order of the Notice, not the order of importance to the dental benefits industry.

**State-Based Marketplaces and the Federal Platform:** The NBPP seeks comment on strategies to make the SBM-FP model (State-Based Marketplace, Federal Platform) more appealing and viable to the 34 States using the Federally-Facilitated Marketplace (FFM), as well as to support retention of the five existing SBM-FPs.

Regarding dental and on the federal enrollment platform through healthcare.gov, consumers shopping for coverage only have access to a dental plan if they first purchase a QHP. This limits plan choice, prevents the possibility of direct enrollment through dental carriers and prevents some populations, such as Medicare enrollees, from accessing dental coverage. Once enrolled, when individuals and families make any change to their medical coverage, this technical flaw causes an automatic termination of any standalone dental coverage regardless of the consumer's interest in maintaining the SADP. During PY 2018 Open Enrollment, the carrier exits and entry on Marketplaces will lead to an increased number of unintended terminations of dental coverage. While States have done great work to fill the bare counties, the transition and passive reenrollment of

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consumers from one health carrier to another in so many States during Open Enrollment will lead to the terminations in dental coverage as described.

- **Recommendation:** NADP strongly encourages CMS to decouple medical and dental enrollment within the individual Marketplaces, which will enhance the enrollment platform for States using the SBM-FP model.

Separating QHPs from SADPs will allow consumers, upon reenrollment, to keep their SADP and change their QHP or vice versa—ending the automatic terminations that have disrupted coverage and care for many families on healthcare.gov. Uncoupling dental from medical would also allow dental carriers to provide direct enrollment to parallel the capability of QHPs, which they cannot offer now.

**Direct Enrollment:** The NBPP proposes several changes to requirements for entities participating in direct enrollment including application and implementation of operational readiness reviews. The NBPP also seeks general feedback on the direct enrollment process to inform the development of future operational and oversight standards.

- **Recommendation:** As several of the proposals seek to enable higher participation in direct enrollment, NADP recommends CMS include data on enrollments and plan selections via this pathway in future Open Enrollment Reports.

**General Functions of an Exchange and Certification Standards:** The NBPP proposes to eliminate requirements for SBM-FPs to enforce FFM standards for network adequacy at §155.200(f)(2)(ii) and essential community providers (ECPs) at §155.200(f)(2)(iii). Instead, SBM-FPs, like other SBMs, would have the flexibility to determine how to implement the network adequacy and ECP standards with which issuers offering QHPs through SBM-FP must comply. For FFMs, the NBPP proposes to extend the certification approach to network adequacy and ECPs that was adopted in the Market Stabilization rule. CMS also proposes deferring to State review for additional aspects of QHP certification including accreditation (156.275), compliance reviews (156.715), minimum geographic area of the plan’s service area (155.1055) and quality improvement strategy (QIS) reporting (156.1130).

- **Recommendation:** While some requirements highlighted in the NBPP do not apply to SADPs (e.g. accreditation and QIS reporting), NADP supports continued deference to States in regulating SADPs offered in their markets and encourages CMS to consider a similar approach to the current process of “Exchange Certification” for SADPs offered outside the Marketplaces. This duplicative approval requirement should be eliminated and, as an option, replaced with an approach whereby a carrier seeking to offer the pediatric EHB as part of an SADP would certify in writing to the State that the benefit is the same as the benefit that is offered in the Marketplace.

**Small Business Health Options Program:** The NBPP proposes discontinuing enrollment through the federally-facilitated SHOP website, meaning the FF-SHOP would no longer serve as a payment platform, generate enrollment and payment transaction files, and perform enrollment reconciliation. Small employers would still be able to obtain an eligibility determination from the SHOP website for the tax

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credit, but could only enroll in a SHOP plan through a SHOP-registered agent or broker, or directly with an issuer participating in a SHOP.

- **Recommendation:** NADP requests clarification around the offer of bundled medical and dental policies under the proposed enrollment processes for SHOP. Under a bundled arrangement, a medical plan that does not include pediatric dental services pairs with an SADP. The bundle appears as just one plan to the consumer. The issuer of each plan assumes the risks and liabilities associated with providing coverage under its own plan. The Affordable Care Act (ACA) envisioned the offer of such plans, but technical issues have prevented the offer of bundled plans through healthcare.gov.

**User Fee Rates:** The NBPP proposes to charge issuers a user fee of 3.5 percent of premiums on FFMs for 2019. For SBMs using healthcare.gov, CMS will charge 3.0 percent, which would constitute an increase from the current 2.0 percent fee for these Marketplaces.

- **Recommendation:** NADP strongly urges CMS to be cautious with any additional fees in Supported State-Based Marketplaces. There is the potential for duplicative user fees from CMS, healthcare.gov and any state infrastructure, which will drive premium increases and threaten market participation, stabilization and competition in those States as well as the ability of States to adopt a SBM-FP model. Additionally, NADP encourages CMS to review and consider decreasing user fees as more and more implementation and oversight roles are returned to the States.

**Essential Health Benefits:** The NBPP makes a number of proposals related to State selection of Essential Health Benefit (EHB) benchmark plans. Under the proposal, States could (1) maintain their current 2017 EHB-benchmark plan, (2) select another State's 2017 EHB-benchmark plan, (3) replace one or more EHB categories from another State's 2017 EHB-benchmark plan or (4) select a new EHB-benchmark plan so long as the plan is equal in scope to a typical employer plan and is no more generous than the most generous comparison plan. Regarding timing, CMS seeks comment on whether this policy should start with the 2019 plan year, as proposed, or with the 2020 plan year.

- **Recommendation:** NADP recommends delaying implementation of any State EHB-benchmark changes until PY 2020. Any earlier would not provide appropriate time to consider options in the States and redesign plans accordingly. We are also very concerned that PY 2019 implementation would not allow time to incorporate changes in the Benefits Template and other Marketplace application tools. Additionally, NADP does not support the proposal to allow changes to an EHB-benchmark each year, which would increase costs related to redesigning and filing plan changes on an annual basis, cause potential consumer confusion and make it difficult if not impossible to measure outcomes over time. EHB-benchmarks should be in place for at least three years before changes are considered at the State level.
- **Recommendation:** NADP requests CMS provide results of the calculation as to whether the separate dental maximum out-of-pocket limit (MOOP) should be increased for PY 2019. In the NBPP for PY 2017, CMS finalized a formula to increase the dental MOOP based on increases in

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the Consumer Price Index (CPI) for dental services and using 2016 as the base year. As is done for medical policies, CMS should provide the results of this calculation each year.

- **Recommendation:** In PRA 10448 related to this NBPP, CMS provides a draft form for State submission of EHB-benchmark changes. Several benefit categories are prefilled in the column labeled “EHB” with “No” (e.g. Routine Dental Services (Adult)). This column includes “No” for “Orthodontia – Child,” which we believe may be an error or an area for clarification. Medically-necessary orthodontia, when included in a State’s benchmark plan, is considered an EHB and is provided by many SADPs on the public Marketplaces. Non-medically-necessary orthodontia or cosmetic orthodontia is not considered an EHB for children or adults and may be a better category for this row.

**Actuarial Value Levels:** The NBPP proposes allowing issuers to offer SADPs without calculating an actuarial value (AV) level of coverage, which is applicable to the pediatric portion of the benefits, or meeting the current high/low AV options for SADPs. SADPs would still be required to comply with the annual limit on cost-sharing for pediatric EHBs and requirements to provide pediatric dental EHBs.

- **Recommendation:** NADP supports removing the AV requirement for SADPs, which will avoid the need to change plan designs by small amounts in order to stay within the current de minimis range and provide flexibility to offer more plan options to consumers. This will also allow carriers to design cost-effective products without cost sharing on preventive benefits, which has been difficult to achieve with the current 70% AV level.
- **Recommendation:** NADP requests clarification on how elimination of SAMP AV levels will impact plan crosswalk procedures given uniform modification requirements.
- **Recommendation:** As a tool to distinguish plans on Marketplaces, dental AV levels have generally been a poor indicator of value given they only apply to the pediatric benefit and the majority of SAMP enrollees are adults. CMS should consider plan design aspects that are relevant to SAMP purchasers on the Marketplaces and implement consumer support tools that are unique to SADPs.

**Other Areas:** Throughout the proposed rule, CMS invites comment on more general functions of the Marketplace and ways to support innovation in the program. For example, the NBPP seeks comment on ways in which CMS “can foster market-driven programs that can improve the management and costs of care and that provide consumers with quality, person-centered coverage.” The NBPP is also seeking comment on any additional program integrity improvements that have not been outlined in the rule but could be beneficial in future rulemaking.

- **Recommendation:** NADP has provided additional background and [recommendations](#) related to Marketplace policy including the “reasonable assurance” requirement for off-Marketplace plans and enrollment transactions and encourages CMS to consider [these recommendations](#) as part of the NBPP rulemaking.<sup>i</sup>

NADP appreciates the opportunity to provide our comments to the Draft Notice of Benefit and Payment Parameters for Plan Year 2019 as it relates to dental plans, and is thankful for the continued support from

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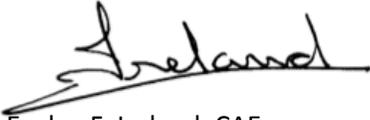
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CMS staff. We look forward to future discussions. For any follow up, please contact NADP's Director of Government Relations, Eme Augustini at [eaugustini@nadp.org](mailto:eaugustini@nadp.org) or (972)458-6998 x111.

Sincerely,



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

### **NADP Description**

NADP is the largest non-profit trade association focused exclusively on the dental benefits industry. NADP's members provide dental HMO, dental PPO, dental Indemnity and discount dental products to more than 184 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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<sup>i</sup> NADP Comments re CMS RFI on "Reducing Regulatory Burdens Imposed by the Patient Protection and Affordable Care Act & Improving Healthcare Choice to Empower Patients" (12 July 2017): <http://bit.ly/2AnT5el>

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