



September 6, 2016

The Honorable Jacob Lew, U.S. Department of Treasury  
The Honorable John Koskinen, Internal Revenue Service  
Room 5203, Internal Revenue Service  
PO Box 7604, Ben Franklin Station  
Washington, DC 20044  
RE: Premium Tax Credit NPRM VI, RIN 1545-BN50

Dear Secretary Lew and Commissioner Koskinen,

The National Association of Dental Plans (NADP) commends the Internal Revenue Service (IRS) and the Department of Treasury (Treasury) for assuring that the calculation of premium tax credits for consumers purchasing coverage on Exchanges appropriately includes premiums of pediatric dental benefits in the proposed rule “Premium Tax Credit NPRM VI.”

The Affordable Care Act (ACA) provides tax credits, also known as premium assistance or subsidies, to be available for lower income individuals purchasing health coverage on individual Marketplaces. Congress intended for premium assistance to take into account all 10 essential health benefits (EHB), including pediatric dental benefits, whether purchased as an embedded part of a medical plan or a separate standalone dental plan (SADP). Section 1401 of the ACA reflects this intent with the addition of 36B(b)(3)(E) requiring pediatric dental premiums for SADPs to be treated as part of the qualified health plan premium for calculating tax credits.

IRS regulations to implement Advanced Premium Tax Credits (APTC) established a calculation based on the cost of a “benchmark plan”—defined as the second-lowest cost silver health plan in a specific region. When the second-lowest cost silver plan used as the “benchmark plan” does not include pediatric dental, the federal tax credit families receive does not include any subsidies for pediatric dental coverage whether purchased as part of a medical plan or separately.

During the last three years, NADP studied the impact of the APTC calculation and found that about two thirds of states did not have pediatric dental coverage embedded within their medical benchmark plan and thus, a tax credit for the pediatric dental premium was not included in the overall subsidy calculation. For a detailed overview of these technical issues, view the infographic, [“The Impact of Missing Premium Assistance for Pediatric Dental Benefits in 2015.”](#)

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The proposed rule clarifies the benchmark calculation to include pediatric dental regardless of whether the benefit is embedded in a medical policy or offered separately on the Marketplaces. In service areas where medical plans do not include pediatric dental coverage, the revised approach will determine a family's benchmark by ranking and choosing the second-lowest cost plan among (1) any embedded silver medical plans available, (2) the lowest-cost silver medical plan that does not include dental plus the lowest-cost portion of an SADP premium allocable to EHB, and (3) the second-lowest cost silver medical plan that does include dental plus the second-lowest cost portion of an SADP premium allocable to EHB.

- **NADP strongly supports the revised calculation of subsidies, which will assure premium support for all 10 of the Essential Health Benefits as intended in the ACA.** We applaud Treasury and IRS for developing the revised calculation and working to ensure equitable distribution of premium support to children and families across the country. This change is absolutely critical to ensure that families on Exchanges have access to dental benefits, which are essential to maintaining good oral and overall health.

In addition to our strong support, NADP offers the following recommendations for improving the final rule.

- I. **Recommendation:** Clarify benchmark determination when lowest and second-lowest cost plans are the same dollar amount.

Example 4 provided on page 44573 of the proposed rule calculates a benchmark plan amount for Taxpayer D, whose family consists of D and D's 22-year-old son, F. Using the proposed calculation, the Example concludes with the following benchmark options, ranked:

- \$1,180 (QHP 3) + \$0 (SADP 1)
- \$1,180 (QHP 3) + \$0 (SADP 2)
- \$1,190 (QHP 2)
- \$1,210 (QHP 1)

The rule determines \$1,180 as the benchmark amount. In this case, the two lowest-cost options are equal, with the second essentially being a repeat of the first. We believe the intent of the calculation and ranking for the second-lowest cost option should find the benchmark amount in the next lowest-cost option, which in this case is \$1,190.

- II. **Recommendation:** Utilize alternative proposal to calculate the APTC benchmark and sum the self-only policies for family members in all cases.

Starting on page 44566, the proposed rule describes two alternatives for determining the premium on which to calculate subsidies for a family. The primary or default method is to use the "silver-level plan that offers coverage to all members of a taxpayer's coverage family who reside in the same location under a single policy." When all family members in the same location cannot be covered under the same policy, an alternative method is used, i.e. "the sum of the premiums for self-only policies for each member of the coverage family who resides in the same location."

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The proposed rule solicits comment on an alternative rule under which the plan premium used to calculate the benchmark would be equal to the sum of the self-only policies under a plan for each member of the taxpayer's coverage family, in all cases and regardless of whether all members of the family could be covered under a single policy under the plan.

NADP supports using the alternative rule as the primary methodology to aggregate premiums for a family and determine the APTC benchmark. We believe this alternative process has the potential to streamline the technical calculation of premium subsidies with minimal impact to overall subsidies due to the small differences in premium.

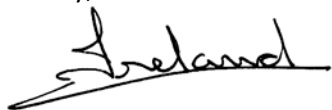
- III. **Recommendation:** Evaluate the implementation date and revise the calculation sooner than coverage year 2019.

The proposed rule indicates the revised APTC calculation will not be available until Open Enrollment in 2018 for Plan Year 2019. We understand the systems supporting healthcare.gov and Marketplace eligibility determinations will require complex changes as a result of this rule. We also believe the new calculation should be available as soon as possible. From a carrier perspective, the proposal will necessitate minimal technical or operational updates, which could certainly be implemented prior to 2019.

We urge Treasury, IRS and partners at the Department of Health and Human Services (HHS) to consider any means to expedite the changes as a result of this rule. The IRS could also consider revising the tax filing process to allow families to claim the missing portion of premium assistance during tax filing in the intervening years. While tax credits may not be available in advance of purchasing a health plan with this alternative, allowing families to claim the portion in tax filings would fulfill the intent of the ACA and this regulation to ensure families receive the necessary support to access essential pediatric dental services.

NADP is appreciative of the opportunity to provide comments on this proposed rule. 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

#### **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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