

TOPIC: EQUITABLE CONSUMER ACCESS TO DENTAL COVERAGE INSIDE AND OUTSIDE THE EXCHANGE

ISSUE: ACA includes coverage for pediatric oral health services as part of the Essential Health Benefits (EHB) package. ACA specifically allows for separate dental policies to provide coverage for the required children's oral health services inside the Exchange, (when chosen with a medical plan offering all other EHB required benefits). The ACA, however, does not explicitly allow for separate dental policies to meet the EHB oral health requirement outside the Exchange. As a result, dental policies in place today as separate dental plans outside the Exchange in the small group/individual market will be duplicative to what a medical plan must offer. With 98% of dental policies sold separately from medical today, this issue will cause great disruption to consumers.

- ❖ **ACTION SOUGHT:** Clarify through HHS regulations that Qualified Health Plans can offer the Essential Health Benefit Package without pediatric oral services outside Exchanges as long as separate dental policies covering those services are available.

BACKGROUND: An amendment authored by Senators Stabenow and Lincoln was unanimously adopted by the Senate Finance Committee during the passage of the ACA recognizing the separation of dental and medical policies. That amendment provided for separate dental coverage, both **inside and outside Exchanges**, to meet the EHB requirement for pediatric oral health services when coupled with a medical policy covering all other services. It also required that dental plans offering the essential pediatric benefit comply with relevant consumer protections for that benefit.

The final statutory language of ACA explicitly provided only for the separate offer of dental benefits in the Exchanges – leaving dental coverage outside the Exchanges in limbo. HHS must provide regulations to address this gap between provisions adopted by Senate Finance in the Stabenow-Lincoln amendment and the statutory language to ensure the continuity of coverage and care envisioned by ACA.

In November 2010, Secretary Sebelius noted in correspondence to Senators Stabenow and Lincoln that “I will work to ensure a balance between enforcing the essential health benefit requirements outlined in the law and allowing market flexibility to provide these benefits in a variety of ways”, and further that “We understand the impact of the regulations on the market and, within our authority, we will strive to write them in a way that continues broad access to necessary medical treatment, including dental care.”

Without regulatory clarification, 43.7 million employees and dependents that now have separate dental policies through 1.65 million small businesses will have their current dental coverage disrupted. Under ACA as currently enacted, in 2014 some 22.9 million children with existing dental coverage through their parents' dental policies will have their oral health services duplicated by a medical carrier. The medical carrier would become primary even if the dental coverage is continued; potentially requiring a shift in dentists. Just as ACA kept its promise to ensure no one would be forced to give up their doctor – this clarification is needed to see this promise is kept for patients and their dentists, too.

TIMEFRAME FOR ACTION IS NOW: The timeline of events to put the coverage requirements of ACA in place by 2014 requires these technical clarifications be made as quickly as possible. With development of state benchmarks by third quarter of 2012, both medical and dental carriers must develop products as well as obtain state insurance agency review and approval in 2012 so that sales training and the enrollment process can occur in 2013 for coverage to be effective in 2014.

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