



February 24, 2014

The Honorable Marilyn B. Tavenner, Centers for Medicare & Medicaid Services
The Honorable Jacob J. Lew, Department of the Treasury
The Honorable Thomas E. Perez, Department of Labor
Forwarded to: regulations.gov; Attention: CMS-9946-P
P.O. Box 8016
Baltimore, MD 21244-8010

Re: **Excepted Benefits**

Dear Administrator Tavenner, Secretary Lew and Secretary Perez,

The National Association of Dental Plans (NADP) is providing comments on “Amendments of Excepted Benefits” published as a proposed rule in the December 24, 2013 Federal Register, page 77632 (proposed rule).

While the proposed rule touches on multiple issues related to excepted, supplemental and wraparound benefits, NADP will be focusing on the amended HIPAA definition as related to dental coverage. The proposed rule would “eliminate the requirement under the HIPAA regulations that participants pay an additional premium or contribution for limited-scope vision or dental benefits to qualify as benefits that are not an integral part of a plan.”

- NADP encourages the Departments to finalize the proposed rule as currently drafted, allowing limited excepted benefits to retain their status without a requirement that participants make a separate premium or contribution for the policy.

In 2004, the Departments recognized separately administered dental benefits could not meet the same requirements placed on medical policies, and defined them as limited excepted benefits within HIPAA. To be considered a limited benefit, the dental or vision policy must either 1) be provided under a separate policy (only per insured business) or 2) not be an integral part of a medical policy (regardless if the policy is insured or self-insured). To further clarify, in order to be considered not an integral part of the plan, participants must have the right to not receive coverage and must pay an additional premium or contribution for that coverage.

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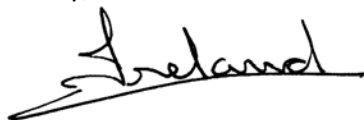
As stated in the proposed rule, multiple stakeholders have found the requirement for an additional payment unnecessary. Employers should be applauded, not penalized for providing additional health coverage to their employees whether fully paid or completely voluntary. Employers should also have further choices when administering dental and vision benefits. As 99% of dental policies are offered separately from medical coverage, it is critical to allow flexibility that will encourage obtaining dental coverage as those with coverage are more likely to visit their dentist and receive important preventive oral health services.

In addition, NADP requests the Departments address the first *integral* requirement when defining excepted benefits - having the right not to elect coverage. The Departments need to consider allowing employers to enroll individuals without providing participants an opt-out election if the benefit is fully paid. For ease of benefit administration, employers may choose to automatically enroll plan participants into dental and vision coverage. As the employer is funding the entire cost of the self-insured coverage and the employee will not have any payroll deductions to pay for the dental and vision benefits, there is no burden on the individual.

- NADP recommends employers be provided additional flexibility in administering the benefits by eliminating the opt-out requirement of the HIPAA excepted benefit definition, provided the employer is paying the entire cost of the coverage.

If you should have any questions, please contact myself or NADP's Director of Government Relations, Kris Hathaway at khathaway@nadp.org or 972.458.6998x111. 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 dental plans and dental indemnity products. NADP's members provide dental benefits to approximately 90 percent of the 187 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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