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July 28, 2021

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare and Medicaid Services  
7500 Security Blvd.  
Baltimore, MD 21244

RE: Patient Protection and Affordable Care Act; Updating Payment Parameters, Section 1332 Waiver Implementing Regulations, and Improving Health Insurance Markets for 2022 and Beyond Proposed Rule (CMS-9906-P)

Dear Administrator Brooks-LaSure,

The National Association of Dental Plans (NADP) appreciates the opportunity to provide comments on the Proposed Rule: “Patient Protection and Affordable Care Act; Updating Payment Parameters, Section 1332 Waiver Implementing Regulations, and Improving Health Insurance Markets for 2022 and Beyond” (CMS-9906-P). The rule would extend plan year 2022 open enrollment by 30 days, alter requirements for Section 1332 state innovation waivers, and allow enrollees to change their qualified health plan (QHP) metal level if they become eligible or ineligible for premium tax credits during the plan year.

NADP is supportive of the changes to Section 1332 waiver requirements and repeal of Enhanced Direct Enrollment (E-DE) programs that threatened to reduce dental coverage on federal and state marketplaces. However, questions remain over the effect of midyear metal level changes on stand-alone dental plan (SADP) coverage.

**Recommendation: NADP seeks clarification on the effect of changes to § 155.420 allowing an enrollee to alter their metal level coverage outside of open enrollment on their dental coverage. In any change to QHP coverage, dental coverage should remain constant, preventing accidental disenrollment from a SADP and loss of coverage for dental care. Furthermore, CMS should allow individuals to purchase a SADP independently of medical coverage, further removing the possibility of accidental disenrollment from metal level changes and expanding the population of individuals who can purchase dental coverage through the exchange platforms.**

National Association of Dental Plans

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## Metal Level Adjustments

According to the proposed rule:

*“...if an enrollee or his or her dependents become newly ineligible for advance payments of the premium tax credit in accordance with paragraph (d)(6)(i) or (ii) of this section, the Exchange must allow the enrollee or his or her dependents to change to a QHP of any metal level, if they elect to change their QHP enrollment;”<sup>1</sup>*

NADP is concerned the proposed rule does not state clearly that an individual’s SADP coverage would not be disrupted by the adjustment of QHP metal level. In PY 2021, over 1.7 million individuals were covered by a SADP on the federal and state exchanges.<sup>2</sup> Where an individual who purchased SADP coverage during open enrollment alongside a QHP subsequently changes metal level mid-year, this should not require re-enrollment in the SADP. If an individual was required to re-enroll in their SADP when changing metal level, there could be unintended consequences including accidental termination of dental coverage.

Accidental SADP termination when altering QHP coverage has occurred before on the federal marketplace. While not tied by legislative or regulatory language, technical issues with the healthcare.gov platform have allowed accidental termination of SADPs when an individual lost or changed medical coverage during the plan year. This can lead to unanticipated bills for dental treatment when an individual expects they are covered for care, but technical issues on the federal marketplace have inadvertently resulted in termination of their coverage.

To prevent accidental termination under the proposed rule’s metal level movement, CMS should take two actions:

1. Specify that a change in metal level of QHP coverage does not require re-enrollment in SADP coverage, preventing accidental termination during alterations to the QHP coverage.
2. Allow individuals to purchase SADPs independently of QHP plans, completely decoupling SADP purchases to ensure coverage is not disrupted. This would also allow individuals who have medical coverage through other means, including their employer, Medicare, or union plans to purchase dental on the exchanges.

## Section 1332 Waivers

The proposed rule would also rescind 2018 guidance on state innovation waivers and the Part One 2022 Notice of Benefit and Payment Parameters changes to the waiver approval process. Both expanded the scope of permissible innovation waiver programs. The Part One 2022 rule allowed states to establish E-

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<sup>1</sup>Federal Register 86. No. 124 (July 1, 2021): 35214.

<sup>2</sup> CMS. 2020. 2021 Marketplace Open Enrollment Period Public Use Files. Center for Medicare and Medicaid Services. <https://www.cms.gov/research-statistics-data-systems/marketplace-products/2021-marketplace-open-enrollment-period-public-use-files>



DE programs, supplanting the central statewide marketplace as the primary means for obtaining QHP and SADP coverage eligible for premium tax credits.

NADP opposed the changes in the Part One 2022 rule, citing concerns that the E-DE platform could lead to accidental disenrollment through the end of auto re-enrollment, and consumer confusion over the eligibility of SADPs for APTC by consolidating exchange and non-exchange dental plan offerings on the same webpage. Analysis of the 2020 Georgia 1332 waiver establishing a program mirroring E-DE would have led to loss of health coverage for up to 99,000 Georgians.<sup>3</sup> The E-DE platform also did not establish requirements that E-DE entities refer Medicaid eligibles to the program, which is a core feature of healthcare.gov. NADP is supportive of the proposed rule's changes to the Section 1332 waiver process, which would repeal the E-DE concept and return to pre-2018 requirements for state waivers, ensuring that individuals do not lose coverage comparable to their existing plans if a state seeks to alter their marketplace.

NADP is appreciative of the opportunity to provide comments on the proposed rule and continues to be dedicated to expanding oral health coverage through the exchange platforms.

Questions regarding our comments should be directed to Owen Urech, Senior Government Relations Analyst at [ourech@nadp.org](mailto:ourech@nadp.org) or 972-458-6998 x108. Again, thank you for your consideration.

Sincerely,



Eme Augustini  
Executive Director

**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 200 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>3</sup> Linke Young, C. and Levitis, J., 2020. *Georgia's Latest 1332 Proposal Continues To Violate The ACA*. Brookings. <https://www.brookings.edu/research/georgias-latest-1332-proposal-continues-to-violate-the-aca/>

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