



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

December 21, 2012

Gary Cohen
Director
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services

**RE: (CMS-9980-P) ACA Standards Related to Essential Health Benefits, Actuarial Value
and Accreditation of Qualified Health Plans**

Dear Director Cohen:

CCD appreciates the opportunity to review and comment on Appendix A: List of Proposed Essential Health Benefits Benchmarks (EHB) and the information available on the CCIIO website about each state's benchmark. CCD supports a transparent approach to developing the state benchmarks that encourages the involvement of consumers and other stakeholders. The inclusion of state by state information on the website and the opportunity to provide comment is an important first step in an open process. We were pleased that information on the exclusions and other coverage limitations were included. However, improvements should be made in order to provide sufficient information to evaluate each state's benchmark. There was a lack of specific plan information about what would be covered in each benefit category. The lack of definitions of key terms made it very difficult to assess plan coverage. CCD urges HHS to ensure that these issues are addressed in any future process in order to achieve a higher level of transparency and consumer involvement.

CCD's review of the state by state information focused on the rehabilitation and habilitation provisions. Given the short comment period, we were not able to complete a review of the other benefit categories important to people with disabilities. We identified a number of states that appear to be limiting the rehabilitation and habilitation benefit in ways that are potentially discriminatory or are not appropriately balanced or responsive to the diverse needs of the population. HHS should carefully review the plans in the states listed below and take the appropriate steps to ensure that in each state the rehabilitation and habilitation benefit is sufficient in amount, duration, and scope to reasonably achieve its purpose. In many cases removing the exclusions and coverage limits would correct the problems with the benefit category.

Benefit design limits based on diagnosis or service type.

It appears that some states (such as TN, WV, WY, WI, ME) are limiting the availability of the rehabilitation and habilitation benefits based on diagnosis. CCD believes this could indicate discriminatory plan design and should warrant closer review. Similarly some states (such as California and Vermont) appear to be defining the habilitation benefit as their state autism mandate. This establishes coverage limits based on diagnosis and age. While CCD supports the coverage of state autism mandates as essential health benefits, it cannot be the habilitation coverage for those states. Habilitation is much broader than one service and is needed by individuals with many types of disabilities and health conditions.

Habilitation and rehabilitation not distinct service categories

Numerous states appear to have proposed benchmarks that added habilitation to rehabilitation without recognizing them as distinct categories and applied the relevant visit limits to the combined benefit. It appears that AL, AK, GA, ID, IL, IN, KY, MS, MO, NV, NH, NJ, OH, UT, TX, VA, have made this choice. These states should be required to supplement their benefit which in many states is significantly inadequate. The majority of states choosing this option have applied a 20 visit limit for PT and OT combined whether it is rehabilitation or habilitation. This approach so severely limits the availability of these critical health services it is likely to discourage enrollment by people with significant health conditions or disabilities. It would discourage enrollment by anyone with significant health care needs.

Maintenance

Many states have chosen to limit the rehabilitation benefit, and in some instances the habilitation benefit, by excluding maintenance care or allowing rehabilitation only in instances where medical improvement is expected. This appears to be true in AK, CT, HI, IA, ID, KS, KY, LA, ME, NV, RI, TN, VA, WV, and WY. CCD supports defining rehabilitation and habilitation consistent with the NAIC recommends and the Summary of Benefits rule.

Limits on Durable Medical Equipment

A few states (NY, OR, PA, SC, WI) appear to have monetary limits applied to these services. CCD supports removing these limits on this benefit.

CCD urges HHS to ensure that these harmful provisions are removed from the state EHBs. As we describe in our comments on the proposed rules we are seeking additional regulatory provision to improve the process for establishing the essential health benefits.

Mary Andrus
Easter Seals
mandrus@easterseals.com

Tim Nanof
American Occupational
Therapy Association
tnanof@aota.org

Angela Ostrom
Epilepsy Foundation
aostrom@efa.org

Lisa Ekman
Health & Disability Advocates
lekman@hdadvocates.org

Julie Ward
The Arc of the US
ward@thearc.org

Peter Thomas
Brain Injury Association of America
peter.thomas@ppsv.com