

TALKING POINTS FOR COMMENTING ON THE ESSENTIAL HEALTH BENEFITS (EHB) BULLETIN

HIV HEALTH CARE ACCESS WORKING GROUP (HHCAWG)

1. HHS should ensure that its approach to the EHB creates a higher national floor for health care coverage and does not penalize state residents for their state government's inaction.

- Small group insurance plans have historically been less comprehensive than most large group plans, state employee plans, or Federal Employee Health Benefit Program plans. Small Group plans also tend to have more coverage restrictions and higher cost-sharing requirements that can result in discrimination against vulnerable populations. The largest for-profit commercial HMO operating in a state may be similarly limited.
- We urge HHS to eliminate the small group plan as a benchmark option and limit the HMO benchmark option to “non-profit” HMOs. If HHS keeps the small group benchmark choice, we urge HHS to designate one of the other benchmark options as the default option for states that fail to choose a benchmark plan (instead of the small group plan).

2. HHS should prohibit plans from substituting benefits across and within categories.

- Because of the unique needs of people living with HIV and AIDS and other complex conditions, we are very concerned that allowing plans to substitute benefits will result in limits on or elimination of important services. We are also worried that substitution of benefits will serve as a means of discrimination by discouraging certain populations from enrollment.

3. The EHB must include protections and safeguards to ensure that people living with HIV and AIDS and other vulnerable populations have access to essential care and treatment.

- We urge HHS to issue guidance and specific regulations requiring coverage of services that are likely to be really different from plan to plan or state to state. More guidance and regulations are also important for services that tend to be limited by insurers as ways to discriminate against certain populations by discouraging enrollment and limiting access to essential care and treatment. These services include:
 - **Access to prescription drugs.** We reject the current guidance that would allow plans to cover one drug in each category or class covered by the benchmark. Such a policy would not support the current standard of care for people living with HIV and AIDS according to the federal HIV treatment guidelines.
 - People living with HIV and AIDS rely on a minimum of three drugs from the antiretroviral drug category, including more than one from within the six antiretroviral drug classes, to effectively suppress the virus.

- Explicit protections, such as those provided under Medicare Part D, are needed within the guidance and future regulations to ensure people with certain conditions, such as HIV infection, have access to all drugs to treat their condition as recommended in the federal HIV treatment guidelines.
- HHS should also issue further guidance to ensure access to **comprehensive mental health and substance abuse services, specialty care providers, preventive services, rehabilitative and habilitative care, chronic disease management programs, and laboratory monitoring** according to the standard of care for HIV disease and other conditions.

4. HHS guidance and future EHB regulations must include patient protections concerning benefit limitations, medical necessity determinations, and utilization management practices that could result in discrimination against vulnerable populations. These practices must be based on the standard of care and not driven by cost.

- We urge HHS to issue regulations and guidance that prohibit insurance companies from limiting access to lifesaving care and treatment through dollar or visit limits on essential services, condition-specific restrictions, and unduly burdensome utilization management and prior authorization practices. For example:
 - Service limits are harmful to individuals with HIV infection and others with chronic conditions who rely on routine medical visits and laboratory monitoring to stay healthy and prevent disease progression.
 - Unrestricted access to lifesaving medications without prior authorization requirements and other utilization controls is necessary to ensure access to the appropriate standard of care in the U.S.
 - We urge HHS to ensure that protections are in place to prevent insurance plans from making it too difficult to access specialists, for example by requiring higher co-payments for specialty care.

5. Implementation decisions regarding the EHB must be transparent and include opportunities for meaningful public participation.

Requiring that states get feedback from a range of people and communities is necessary to ensure that the proposed benchmark plan takes into account the needs of diverse populations and to satisfy the requirements of the ACA for meaningful public involvement.

MAKE YOUR VOICE HEARD! [Comments to HHS on this EHB bulletin are due January 31, 2012.](#)

To make your voice heard, please email your comments to EssentialHealthBenefits@cms.hhs.gov.

For more information, please visit hivhealthreform.org.