

United States Senate
WASHINGTON, DC 20510

March 15, 2013

Ms. Marilyn Tavenner
Acting Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Acting Administrator Tavenner:

Ensuring that health care is accessible and affordable is the primary goal of the Patient Protection and Affordable Care Act (ACA). The health of every child depends on access to affordable care for all of his or her health needs, including dental services. We are concerned by the failure of CMS to carry out the intentions of the Affordable Care Act and ensure that pediatric dental services, a specified essential health benefit, are affordable and available to families.

The death of Deamonte Driver, the 12-year old Marylander who died of a tooth infection six years ago, was a result of his family's inability to access dental care. It is appalling that oral health care largely remains separate from other health care services as if the mouth were not an essential part of the body. That is why we specifically included oral health care as part of the pediatric services in ACA's essential health benefits. However, in recent weeks CMS has made decisions that are likely to make those benefits unattainable for families.

Last month, HHS released the final rule for the Essential Health Benefit which allows for a separate out-of-pocket (OOP) limit for pediatric dental benefits provided through stand-alone dental plans, in addition to the OOP limit already established by the law for essential health benefits. On March 1, in the draft "Letter to Issuers on Federally-facilitated and State Partnership Exchanges," CMS went further to propose that any separate OOP limit up to a \$1,000 per child OOP for pediatric dental services would be considered reasonable in the federally-facilitated exchanges (FfEs). Such policy is in conflict with the intent of Congress to provide affordable benefits for families to access routine and necessary care, including pediatric oral health care. We find it deeply concerning that CMS would allow stand-alone dental insurers to OOP limits as high as \$1,000 *per child* beyond what the law intends families to pay for services considered essential health benefits.

While not all families are likely to incur high out-of-pocket expenses as a result of pediatric dental care, the children most likely to experience severe dental disease live in families who are least able to afford the cost of major restorative care. The ACA clearly establishes that out-of-pocket limits for all essential health benefits, including pediatric dental, reflect a family's ability to pay.^[1] Therefore, we urge CMS to establish a framework in its federally facilitated exchanges that encourages the purchase of pediatric dental benefits and holds families harmless regardless of how those benefits are offered.

^[1] Patient Protection and Affordable Care Act §1402(b)

Such an approach would require that any separate out-of-pocket limits be tiered according to income. Additionally, separate out-of-pocket limits for stand-alone dental benefits would be built into the overall out-of-pocket limit established by the law. Under this scenario, families can anticipate the same out-of-pocket costs regardless of how their children get dental coverage and insurers face no additional administrative burden assuming that out-of-pocket limits are disclosed into the standard plan designs. This framework respects the existing stand-alone dental marketplace while aligning OOP costs.

For example: A family of four living at 300% FPL would have an overall OOP limit of \$5,950. If an exchange decides that a reasonable OOP limit for stand-alone dental is \$800, the OOP limit for that family's medical plan would be \$5,150. This approach would promote affordability and holds families harmless regardless of how they get their children's dental coverage (stand-alone or embedded in a QHP).

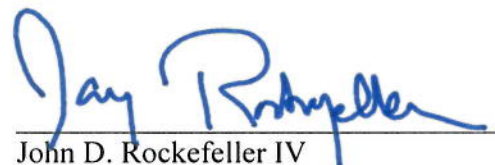
We believe this is of even greater importance because the final rule on Essential Health Benefits clarified that families are not required to purchase stand-alone dental coverage in the exchanges. If pediatric dental benefits are unaffordable, many families may choose to forgo the purchase of dental benefits for their children. Such an outcome would put the health of children at risk and negate the work of Congress to clearly establish dental care as an essential component of pediatric health care.

When Congress included pediatric oral health care as part of a comprehensive set of pediatric services under the Essential Health Benefits, we took a major step towards ensuring that no child would suffer needlessly from preventable tooth decay. Allowing stand-alone dental insurers to offer benefits in the marketplace should not be in conflict with this commitment or the clear intent of the law. It is the responsibility of CMS to ensure that both the law and the underlying intent of that law are upheld.

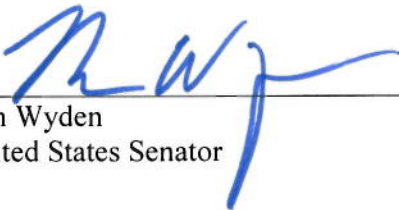
Sincerely,



Benjamin L. Cardin
United States Senator



John D. Rockefeller IV
United States Senator



Ron Wyden
United States Senator



Barbara A. Mikulski
United States Senator



Michael F. Bennet
United States Senator



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