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**Pediatric Oral Care Essential Health Benefits Under the Affordable Care Act:**
**A review of options for California**
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## INTRODUCTION

Diringer and Associates was retained by the California HealthCare Foundation (CHCF) to provide expert analysis and recommendations to legislative staff regarding the Affordable Care Act's Essential Health Benefits (EHB) for pediatric oral services.

This report summarizes the research including the federal directives, comparison of the plans and stakeholder input. Based on the research, we make recommendations for the essential health benefits for pediatric oral and vision care.

## FEDERAL GUIDANCE

1. Essential Health Benefits (EHB) Bulletin

Under section 1302 of the Affordable Care Act (ACA), non-grandfathered plans in the individual and small group markets both inside and outside of the Exchanges, Medicaid benchmark and benchmark-equivalent, and Basic Health Programs must cover the EHB beginning in 2014 including items and services within the following 10 benefit categories:

(1) ambulatory patient services,
(2) emergency services
(3) hospitalization,
(4) maternity and newborn care,
(5) mental health and substance use disorder services, including behavioral health treatment,
(6) prescription drugs,
(7) rehabilitative and habilitative services and devices,
(8) laboratory services,
(9) preventive and wellness services and chronic disease management, and
(10) **pediatric services, including oral and vision care.**

Section 1302(b)(2) of the ACA instructs the Secretary that the scope of EHB shall equal the scope of benefits provided under a ""typical employer plan." Each state is to select a **benchmark plan** would serve as a reference plan, reflecting both the scope of services and any limits offered by a "typical employer plan" in that State.

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Not every benchmark plan includes coverage of all 10 categories of benefits identified in the Act. For example, many of the benchmark plans do not routinely cover pediatric oral or vision services.

**Pediatric Oral and Vision Services**

For pediatric oral care, HHS is considering two options for supplementing benchmarks that do not include these categories. The State may select supplemental benefits from either:

1) The Federal Employees Dental and Vision Insurance Program (FEDVIP) dental plan with the largest national enrollment; or
2) The State's separate CHIP program.

The EHB definition does not include non-medically necessary orthodontic benefits.

**Cost sharing and actuarial value**

In determining Essential Health Benefits, only the covered services are considered, not the cost sharing such as deductibles, copayments and dollar limitations. A separate guidance addresses the determination of actuarial value. However, amount, duration and scope limitations are considered in determining the EHB.

2. Federal regulations

On March 27, 2012, HHS issued final regulations related to Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers. Among many other provisions, the rules set standards for dental plans that are allowed to offer pediatric coverage in the Exchange. While not directly affecting the EHB definitions, §155.1065 of the regulations[1]

- allows dental plans to be offered as a stand-alone dental plan, or in conjunction with a qualified health plan;
- applies the same cost-sharing limits and restrictions on annual and lifetime limits to stand-alone dental plans as are applied to qualified health plans;
- requires stand-alone dental plans to offer child-only plans in the Exchanges;
- requires the Exchange to ensure that participating dental plans have the provider network capacity to offer sufficient access to all eligible children;
- requires that stand-alone dental plans comply with all certification standards for qualified health plans except for those related to services other than pediatric oral health care; and
- directs the Exchanges to collect rate information on pediatric dental benefits for the purposes of determining advance payments of the premium tax credit.

## CALIFORNIA ACTIVITIES

AB 1453 and SB 951 propose the "Kaiser Small Group HMO" plan as the EHB benchmark in California. For pediatric oral care and vision care, the legislation proposes that the benefits be those in the FEDVIP dental plan and vision plan with the largest national enrollment as of the first quarter of 2012. The bill further states that the scope and duration limits imposed on the services and benefits described shall be no greater than those in the benchmark FEDVIP dental plan and vision plan.

[1] http://www.regulations.gov/#!documentDetail;D=HHS-OS-2011-0020-2420

ANALYSIS AND RECOMMENDATIONS:

**Pediatric oral care**

The benchmark plan selected by the legislation, the Kaiser Small Group HMO, has very limited dental coverage. It covers dental services only if they are an integral part of covered reconstructive surgery for cleft palate. The plan also pays for dental anesthesia for procedures performed at Kaiser facilities, but does not cover the actual dental services.

California has the choice of supplementing the benchmark plan with benefits from either of 1) the FEDVIP dental plan with the largest enrollment or 2) the separate CHIP program. If a State does not have a separate CHIP program, it may establish a benchmark that is consistent with the applicable CHIP standards. The current CHIP (Healthy Families) dental benefits are codified at: 10 CCR §§2699.6709 and 6713. The largest FEDVIP plan is the MetLife plan (http://www.opm.gov/insure/health/planinfo/2012/brochures/MetLife.pdf).

**Non-orthodontia differences**

There are some minor differences between the plans, with the major difference being the coverage of orthodontia. Among the non-orthodontia differences are that MetLife does not offer some benefits that are provided under Healthy Families: oral hygiene instruction, biopsy of oral tissue, vital pulpotomy and pulp vitality testing, oral sedation, nitrous oxide and local anesthesia.

While the MetLife plan has significant copays and coverage limits these limits should not be used when determining EHB. These cost sharing provisions affect the actuarial value of a plan, but do not affect the scope of benefits. However, non-dollar limits, such as limiting services within a time period are allowed. Under the Bulletin plans may be permitted to impose non-dollar limits, consistent with other guidance, that are at least actuarially equivalent to the annual dollar limits.

**Orthodontia**

The December Bulletin states that HHS will propose that EHB would not include non-medically necessary orthodontia services (Page 11), i.e. only medically necessary orthodontia is considered an EHB.

MetLife offers a richer orthodontia benefit, albeit with a 24 month waiting period before coverage begins. Orthodontia services are covered up to age 19, with a maximum lifetime maximum of $1500 in network ($1000 out of network) for the standard option and $3500 for the high option. There is also a 50% copay. There is no "medical necessity" standard for MetLife's orthodontia coverage, but the plan does not pay for purely cosmetic services.

Orthodontia is carved out of the Healthy Families dental plan, and coverage is provided through California Children's Services (CCS) for a limited scope of medically necessary orthodontia (10 CCR §2699.6709 (a) (8)). The criteria that CCS uses are identical to those that have been used by the Denti-Cal program since the 1990's. Children may obtain orthodontia as 1) the result of certain qualifying conditions, 2) a score of 26 or higher on the Handicapping Labio-Lingual

Deviation (HLD) Index, or 3) under Early and Periodic Screening, Diagnosis, and Treatment – Supplemental Services (EPSDT-SS) criteria. The criteria and treatment authorization processes are spelled out in the Medi-Cal Dental Program Provider Handbook beginning at page 9-3. (http://www.denti-cal.ca.gov/WSI/Publications.jsp?fname=ProvManual).

On balance, it appears that Healthy Families provides somewhat greater pediatric benefits than the MetLife plan and it a specific set of pediatric benefits familiar in California. The differences lie in orthodontia. Although Healthy Families carves out orthodontia, the benefits provided to children enrolled in Healthy Families are easily defined by reference to the CCS and Denti-Cal standards. These standards are for "medically necessary" orthodontia only, in conformance with the EHB definition proposed in the Bulletin.

Our recommendation is to use the Healthy Families benefits currently in existence, explicitly adding the orthodontia criteria used by CCS and Denti-Cal which is through a point system using the Handicapping Labio-Lingual Deviation (HLD) index, an automatic qualifying condition, or under the Early Periodic Screening, Diagnostic, and Treatment - Supplemental Services (EPSDT-SS) criteria when there are extenuating medical circumstances.. The legislation could either 1) add the specific language of the criteria in the legislation or 2) reference the criteria in the Denti-Cal Handbook.

California would appear to be able to use the Healthy Families plan as a benchmark, even if it does not continue to exist. It could do that by 1) identifying the current Healthy Families plan is the benchmark plan (with the additional orthodontia language), 2) referencing the current regulations (10 CCR sections 2699.6709 and 6713), or 3) by specifying the specific benefits.

### Additional considerations

There were additional comments related to essential health benefits that would expand the scope of either benchmark plan. These recommendations suggested that

- telehealth services be covered,
- a bundled package of benefits for young children ages 0-3 which would provide for risk assessment, intensive intervention for high risk children with disease management based on the risk. This would incorporate Caries Management By Risk Assessment (CAMBRA),
- the plans require diagnostic dental codes to make it more possible to measure quality and appropriateness of care, as well as determine whether actual oral health outcomes are improving.

## CONCLUSION

Upon reviewing the federal guidance, developing a comparison of the alternative plans, and seeking input of stakeholders and experts, it is our recommendation that the benchmark for the pediatric dental benefits be the current Healthy Families benefits, provided that the scope of orthodontic benefits be specifically delineated.

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