May 5, 2016

The Honorable Sylvia M. Burwell
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW Room 639G
Washington, DC 20201

Dear Secretary Burwell:

We write to urge you to use your regulatory authority to create a national, standardized definition for what is included in the tenth Essential Health Benefit (EHB) category "pediatric services, including oral and vision care."

Supporting children’s health and development is essential, as early experiences and exposures result in long-lasting health impacts.1 Intervening to address health and social issues early in childhood and during critical developmental stages can result in improved clinical impacts as well as potential cost-effectiveness when compared to managing chronic conditions over the patient’s life.2

- In terms of insurance coverage, one study that examined the long-term impact of expansions to Medicaid and CHIP showed that children whose eligibility increased paid more in cumulative taxes by age 28 and collected less in Earned Income Tax Credit payments.3 The authors estimated that the government would recoup 56 cents of each dollar spent on childhood Medicaid by the time these children reach the age of 60—a return on investment that does not include estimated decreases in mortality and increases in college attendance.4

- In terms of health services covered, analyses of routine childhood vaccination in the United States showed that, among members of the 2009 U.S. birth cohort, vaccination will prevent approximately 42,000 early deaths and 20 million cases of disease.5 This demonstrated a net savings of $13.5 billion in direct costs and $68.8 billion in total societal costs.6

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2 Ibid.
4 Ibid.
6 Ibid.
Although the category of “pediatric services, including oral and vision care” is the tenth required EHB—an important step forward for addressing children’s health and development—neither the Affordable Care Act (ACA) nor the implementing regulations define this benefit. The ACA grants the Department of Health and Human Services (HHS) the authority to establish EHB categories subject to certain consumer and other protections (42 U.S.C. §18022(b)(4)). In so doing, HHS allowed states to select “benchmark” plans that represent a state’s “typical” employer-sponsored plan, to serve as a template for other health plans to follow—instead of creating a national standard.

While the Children’s Health Insurance Program (CHIP) also uses a similar benchmark plan approach, these plans are specifically designed for children. In contrast, the benchmark plan approach to EHBs—especially for children under the pediatric services benefit—does not specifically target children and youth and fails to ensure that they have access to benefits that are essential to meeting their needs. Some specific concerns with the implementation of the pediatric services EHB are described below:

- **Treatment limits and exclusions**: Many states have excluded from their plans important services that children need to thrive. The benchmark plan approach to EHBs in the pediatric services benefit has resulted in arbitrary coverage exclusions and limitations of necessary services for children, such as home health services, habilitative services and developmental devices, and—in some cases and contrary to federal law—well-child visits. Absent provisions that bar pediatric treatment limits and exclusions not based on medical necessity—particularly for children with special health care needs—the pediatric services EHB remains dependent on a child’s zip code.

- **Affordability**: A recent HHS review entitled “Certification of Comparability of Pediatric Coverage Offered by Qualified Health Plans” (Nov. 25, 2015) found that exchange plans, compared to CHIP plans, had higher out-of-pocket spending, lower actuarial value, and less comprehensive “child-specific” services.

- **Pediatric dental coverage**: Concerns exist regarding the adequacy and affordability of pediatric oral health services, which are not treated as a core component of EHB coverage, for three primary reasons:
  - If a stand-alone dental plan exists in a given marketplace, qualified health plans are not required to embed dental services in their basic benefits, despite “pediatric services, including oral and vision care” [emphasis added] being required in ACA.
  - Consumers purchasing stand-alone dental plans do not have access to the same level of affordability and consumer protection standards as those guaranteed by the qualified health plan, including federal subsidies.

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The Recommendations for Pediatric Preventive Health (July 14, 2010) do not make clear that preventive services covered with no cost-sharing include all the preventive oral health services that are provided by medical and dental/oral health professionals based on a child’s level of risk and in accordance with Bright Futures guidelines. As you know, Bright Futures guidelines are not strictly limited to the periodicity schedule, which is outlined primarily for medical professionals rather than dental/oral health professionals.

While HHS has elected to maintain the benchmark plan approach for the 2017 plan year, we understand that the agency will continue to examine how the policy affected enrollees and what changes, if any, should be made in the future. Specifically for the pediatric services EHB, we respectfully request modification of the benchmark plan approach to instead create a national, standardized definition for pediatric services. We suggest that HHS establish a definition of the pediatric EHB category by considering the following recommendations and existing pediatric benefits, which would represent significant steps toward addressing the aforementioned concerns:

- Medicaid’s Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit: EPSDT guarantees coverage for all medically necessary pediatric services. It is focused on pediatric principles and covers children through age 21.

- CHIP plans: In many states, CHIP has a robust pediatric appropriate benefit package that assures children in that state receive the care and services they need to develop to their full potential. States could be empowered to use the benefits they have chosen for their CHIP plan as the tenth category—pediatric services—in their EHB.

- American Academy of Pediatrics (AAP) recommendations: The AAP has proposed a comprehensive approach to coverage that encompasses a broad range of preventive, medical, specialty, mental/behavioral health and therapeutic care for infants, children, youth, and young adults through age 26. These recommendations could serve as a template for coverage.

The ACA has provided significant gains for children, but there remain important opportunities for children that have not yet been fully realized. We look forward to working with you to ensure that coverage for children under the ACA allows our future generations to live healthily and thrive.

Sincerely,

BRIAN SCHATZ  
U.S. Senator

BENJAMIN L. CARDIN  
U.S. Senator

