



**Association for Behavioral
Health and Wellness**

*Advancing benefits and services
in mental health, substance use
and behavior change.*

December 26, 2012

Marilyn Tavenner, Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Re: Patient Protection Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation

Dear Administrator Tavenner:

The Association for Behavioral Health and Wellness (ABHW) is an association of the nation's leading behavioral health and wellness companies. These companies provide an array of services related to mental health, substance use, employee assistance, disease management, and other health and wellness programs to over 110 million people in both the public and private sectors. ABHW and its member companies use their behavioral health expertise to improve health care outcomes for individuals and families across the health care spectrum.

On behalf of its members, ABHW has the following comments on the Essential Health Benefits, Actuarial Value, and Accreditation proposed rule that was released on November 20, 2012. Specifically, below we address the following:

- support for appropriate coverage for mental health and substance use disorders; the need for benefit information; and the need for an identified process to supplement inadequate benefits;
- support for inclusion of wellness and chronic disease management;
- support for payments being based on a qualified health plan's (QHP) actual cost in the case of additional benefits being added to the essential health benefit (EHB);
- support for flexibility in the definition of habilitative services while allowing interested stakeholders to determine what an appropriate habilitative services benefit should look like;
- support for allowing QHPs to use utilization management techniques as long as they are not discriminatory; and,
- support for benefit design flexibility with recognition of the potential impact on MHPAEA.

We appreciate the Department of Health and Human Services' (HHS) recognition and reinforcement that mental health and substance use disorder services must be a part of the EHB. Behavioral health treatment is critical to a person's overall health and wellness. ABHW wants to ensure that benchmark plans provide appropriate coverage for mental health and substance use disorders. We request that as much information as possible is made available in regard to the mental health and substance use disorder benefit chosen by the state and that federal guidance be given related to the process states should undertake to supplement an inadequate mental health and substance use benchmark benefit.

ABHW is pleased that wellness services and chronic disease management is included in the EHB as these are important components of a person's behavioral health treatment. Little attention has been paid to these important pieces of the benefit

package and states may need some assistance in identifying appropriate wellness services and chronic disease management programs to include in the EHB.

In the proposed rule, HHS requested comments on whether or not, in the case of additional benefits being added to the EHB as a result of a state mandated benefit law enacted after December 31, 2011, a state should make payments based on the statewide average cost or make payments based on each QHP issuer's actual cost if different issuers report that a particular additional required benefit costs a different amount. ABHW recommends that the payment be based on the QHP's actual cost. Cost of services may vary based on the QHP's size, location, ability to negotiate price, and other factors. For example, a small plan, with less volume, may not be able to negotiate the same rate with providers as a larger plan; however, the small plan should not be penalized by not being reimbursed its actual cost for the additional benefit.

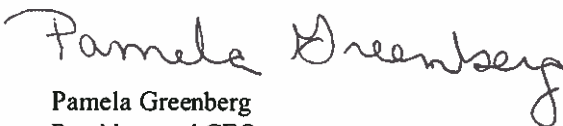
The proposed rule gives the state the ability to define the habilitative service category if it is not covered in the base-benchmark plan; if the state chooses not to define this category plans must still provide benefits in this category. ABHW believes that this flexibility will allow for comparisons to be made between the different definitions of habilitative services to help determine, with all interested stakeholders, what an appropriate habilitative services benefit should look like. Habilitative services can be an important component of some behavioral health treatments. Consensus does not currently exist on the definition of habilitative services; the flexibility during the first few years that the exchange is operating will hopefully help build consensus.

It is critical to maintain the ability of QHPs to manage the benefit in order to help provide a quality, low cost benefit to members of the health insurance exchange. To that end, we appreciate the recognition in the proposed rule that the QHPs should not be prohibited from applying utilization management techniques as long as the use of such techniques does not discriminate against certain groups of people.

We understand the need for benefit design flexibility within categories and are supportive of its inclusion. Such flexibility will allow for innovation, choice, and benefit designs that more accurately reflect the needs of the population being served by the QHP. However, if a QHP changes its benefit design we recommend that the mental health and substance use disorder benefit not be required to go through the exercise of recalculating its benefit to become parity compliant with the new benefits but rather maintain its original parity compliant base-benchmark benefit (or an altered benefit design as permitted under the proposed regulation). Benefit design flexibility is intended to be within an EHB category and is not meant to impact the benefits offered in another category.

Thank you for your attention to this issue. We appreciate the opportunity to comment on the proposed rule and if you would like to discuss our comments please contact Pamela Greenberg, President and CEO, at (202) 449-7660 or greenberg@abhw.org.

Sincerely,



Pamela Greenberg
President and CEO
Association for Behavioral Health and Wellness