



## Request for Comment Regarding Essential Health Benefits Bulletin

**Agency:** Joint agency request by the Minnesota Departments of Commerce, Human Services and Health.

**Summary:** The Patient Protection and Affordable Care Act (ACA), Public Law 111-148 enacted on March 23, 2010, and modified by the Health Care and Education Reconciliation Act, Public Law 111-152 enacted on March 30, 2010, Section 1302(b), directs the Secretary of Health and Human Services to define essential health benefits (EHB). Beginning in 2014, non-grandfathered plans in the individual and small group market both inside and outside of the Exchanges, Medicaid benchmark and benchmark equivalent, and Basic Health Programs must cover the EHB.

### **Essential Health Benefits Bulletin**

On December 16 2011, the U.S. Department of Health and Human Services (HHS) issued a bulletin to provide information and solicit comments on the regulatory approach that the Department of Health and Human Services (HHS) plans to propose to define essential health benefits (EHB). This bulletin only addresses covered services for the individual and small group markets, it does not address plan cost sharing or the calculation of actuarial value. Additionally, the bulletin does not provide further guidance on the EHB implementation in the Medicaid program or implementation of Medicaid benchmark benefits under section 1937 of the Social Security Act.

The intended regulatory approach outlined by HHS utilizes a reference plan based on employer-sponsored coverage in the current marketplace. Section 1302(b)(2) of the Affordable Care Act outlines that the scope of the EHB shall equal the scope of benefits provided under a typical employer plan. The EHB must include items and services within the following ten statutory 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) preventative and wellness services and chronic disease management, and (10) pediatric services, including oral and vision care. In addition, section 1311(d)(3) of the Affordable Care Act requires States to defray the cost any benefits required by State Law to be covered by qualified health plans beyond the EHB.

The bulletin outlines four benchmark plan types for States to consider as the EHB for health plans in the individual and small group market:

- 1) The largest plan by enrollment in any of the three largest small group insurance products in the State's small group market
- 2) Any of the largest three State employee health benefit plans by enrollment
- 3) Any of the largest three national Federal Employees Health Benefits Plan (FEHBP) options by enrollment
- 4) The largest insured commercial non-Medicaid Health Maintenance Organization (HMO) operating in the State

States are directed to choose an EHB benchmark plan during the third quarter of 2012 for coverage years of 2014 and 2015. If States choose not to select a benchmark, HHS intends to propose that the default



benchmark will be the small group plan with the largest enrollment in the State. HHS intends to assess the benchmark process for the year 2016 and beyond based on evaluation and feedback.

The bulletin and accompanying fact sheet can be found on the Center for Consumer Information and Insurance Oversight (CCIIO) website:

Bulletin: [http://cciio.cms.gov/resources/files/Files2/12162011/essential\\_health\\_benefits\\_bulletin.pdf](http://cciio.cms.gov/resources/files/Files2/12162011/essential_health_benefits_bulletin.pdf)

Fact Sheet: <http://www.healthcare.gov/news/factsheets/2011/12/essential-health-benefits12162011a.html>

**Request for Comments:** This request identifies a broad set of content areas of interest related to the bulletin. This is a request for comment regarding the aforementioned bulletin to assist the Departments in preparing a formal response to the U.S. Department of Health and Human Services. Comments are requested on all parts of the bulletin.

**Date Requested:** On or before 3pm central time on Monday January 16, 2012.

**How to Send Comments:** Send written comments to [HealthReform.MN@state.mn.us](mailto:HealthReform.MN@state.mn.us) and write “Essential Health Benefits” in the subject line of the email.