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To: [E-OHPSCA2713.EBSA](#)
Subject: RIN 1210-AB44
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September 17, 2010
Department of Labor
Department of Treasury
Department of Health and Human Services

Re: RIN 1210-AB44 - Comments on Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act

These comments on RIN 1210-AB44 are submitted on behalf of the Society of Professional Benefit Administrators (SPBA).

SPBA is the national association of Third Party Administration (TPA) firms that are hired by employers and employee benefit plans to provide outside professional management of their employee benefit plans. It is estimated that 55% of US workers in non-federal health coverage are in plans administered by some form of TPA. The clients of TPA firms include every size and format of employment, including large and small employers, state/county/city plans, union, non-union, collectively bargained multiemployer plans, as well as plans representing religious entities.

The members of SPBA are concerned about the open-ended nature of items and services that have in effect a rating of A or B in the current recommendations of the United States Preventive Services Task Force. While the interim final rules give plans the discretion to use reasonable medical management techniques to determine the frequency, method, treatment, or setting for an item or service, more discretion needs to be given plans. Below we list the items and services that are especially problematic and discuss the issues involved.

Counseling for Alcohol Misuse

The US Preventive Services Task Force recommends screening and behavioral counseling interventions to reduce alcohol misuse by adults, including pregnant women, in primary care settings. The SPBA members are troubled about the potential scope of coverage mandated by the term behavioral counseling interventions. We assume that the agencies are not interpreting the Patient Protection and Affordable Care Act to mandate the coverage of luxurious recuperating resorts for alcoholics that include counseling services. In some cases the counseling is not billed separately from the accommodations and amenities.

We assume plans have the discretion to define behavioral counseling interventions. We would appreciate clarification on this point.

The reasonable medical management section of the interim final rules should be clarified to permit plans to determine the appropriate credentials of the individual providing the services for behavioral counseling interventions. The current wording (setting for an item or service) does not give plans the comfort they need in determining the types of service providers to be covered by the plan terms. May plans require a professional license or certificate from the individual performing the counseling? Does screening encompass the diagnosis of alcoholism?

Screening for Depression: Adults

The USPSTF recommends screening adults for depression when staff-assisted depression care supports are in place to assure accurate diagnosis, effective treatment, and follow-up.

SPBA members are unclear about what this statement is requiring. Is this item requiring coverage for the diagnosis, treatment and follow-up? We assume that this language is not requiring the coverage of drugs to treat depression.

Screening for Depression: Adolescents

The USPSTF recommends screening of adolescents (12-18 years of age) for major depressive disorder (MDD) when systems are in place to ensure accurate diagnosis, psychotherapy (cognitive-behavioral or interpersonal), and follow-up.

Again, SPBA members are unclear about what this language is requiring.

Counseling for Diet

The USPSTF recommends intensive behavioral dietary counseling for adult patients with hyperlipidemia and other known risk factors for cardiovascular and diet-related chronic disease. Intensive counseling can be delivered by primary care clinicians or by referral to other specialists, such as nutritionists or dietitians.

We assume that plans are given the discretion to define intensive behavioral dietary counseling. What criteria may plans impose on other specialists? These mandates for preventive services have the potential to lead to a flood of claims from individuals providing what they believe is dietary counseling. Plans need the ability to impose standards and parameters for evaluating the medical credibility of dietary counseling.

Is this item requiring coverage of eating disorders, such as bulimia or anorexia?

Screening and Counseling for Obesity: Adults

The USPSTF recommends that clinicians screen all adult patients for obesity and offer intensive counseling and behavioral interventions to promote sustained weight loss for obese adults.

We assume plans are given the discretion to define intensive counseling and behavioral interventions to promote sustained weight loss. We assume this language is not requiring plans to cover drug treatment in connection with counseling for obesity or the cost of weight-watcher type programs.

Screening and Counseling for Obesity: Children

The USPSTF recommends that clinicians screen children aged 6 years and older for obesity and offer them or refer them to comprehensive, intensive behavioral interventions to promote improvement in weight status.

We assume that plans are given the discretion to define comprehensive, intensive behavioral interventions.

Counseling for STIs

The USPSTF recommends high-intensity behavioral counseling to prevent sexually transmitted infections for all sexually active adolescents and for adults at increased risk for STIs.

We assume that plans are given the discretion to define high-intensity behavioral counseling.

Counseling for Tobacco Use: Adults

The USPSTF recommends that clinicians ask all adults about tobacco use and provide tobacco cessation intervention for those who use tobacco products.

We assume that plans are given the discretion to define tobacco cessation intervention. We assume this language does not require the coverage of drugs in connection with counseling for tobacco use. Thank you for considering our comments.

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