

# **Response to Request for Comments Regarding Section 2713 of the Public Health Service Act Prior to Rule-making**

**Submitted to the Department of Health and Human Services, Department of Treasury, and Department of Labor**

**Submitted by a FL-based Health Plan**

**Through the Federal eRulemaking Portal**

## **Brief Background on Submitting Health Plan**

The health plan making this submission is a FL-based Health Maintenance Organization with over 40,000 covered lives. It participates in the large group and individual insurance markets in FL. The preponderance of its covered lives is individual policyholders. Many of the benefit designs of the insurer are individual products with very low monthly premiums to attract individuals with very limited means who would otherwise be uninsured as they exceed Federal Poverty Income Thresholds for government programs. For example our comprehensive HMO coverage for children product begins at \$75 per month per child. Our other individual comprehensive HMO coverage begins at \$90 per month per individual.

## **General Comments**

We are concerned about the depth, breadth and sometimes the ambiguity of the services outlined and the administrative impact that it will have on health plans. The list of services in the current three categories is extremely broad and subject to interpretation as to what is and is not covered and to what extent. We believe the departments should consider linking all of the covered preventive services outlined to both ICD-9 diagnosis codes and CPT or other relevant procedures codes so it is clear as to what is required to be covered and to what extent.

## **Specific Comments**

We appreciate the regulatory guidance on when co-pays can be applied if the preventive service is linked to an office visit as well as the discussion on the application of co-pays related to periodicity schedules. With regard to these areas, we believe the regulations are clear and appropriate and support the recommendations.

Many plans do not provide certain services as part of their current benefit packages, for example mental health and substance abuse services. In other cases, certain services are only offered if a member purchases a rider for these services, for example dental and vision. The Section 2713 regulations and required preventive services seem to require the provision of certain services that are generally not covered by many plans as an overall benefit. What, then, would the depth and breadth of these services be? Is it fair to assume that such preventive services are limited to general assessments in PCP offices

and that plans are not required at this time to cover additional services if they are not part of plans' defined benefits? Or does the preventive services section require plans to add benefit coverage areas and providers?

Further, certain required preventive services lack clarity as to the depth and breadth of the coverage. We are concerned that some of the descriptions go beyond simply counseling and assessment by PCPs and may open up to a requirement to provide additional services or benefits, many of which are not covered benefits. For example, if a PCP does an assessment or recommends that a patient seek further assessment, counseling or establish a therapy or regimen, is that sufficient to meet the PPACA requirements? Or would the plan be obligated to cover the additional services or therapies recommended by the PCP?

Specific examples covering these last two paragraphs above are provided below:

- **Alcohol misuse or screening and tobacco use screening.** Is PCP counseling sufficient or would additional services be required if not a covered benefit?
- **Aspirin use, iron supplements, and folic acid supplements.** We assume counseling by a PCP is sufficient and that the plan is not required to cover an OTC medication if it does not do so.
- **Depression screening.** Is a PCP assessment sufficient as the plan may not cover follow-up MH services?
- **Diet counseling and obesity screening and counseling.** Is a PCP counseling sufficient as the plan may not cover nutrition services?
- **Developmental screenings and behavioral health assessments.** Is PCP screening sufficient as coverage for follow-up may not be covered as part of plan benefits?
- **Oral health assessments and fluoride.** Is a PCP assessment on oral health and recommendation for use of fluoride if in appropriate area sufficient if dental is not a covered benefit?
- **Vision screening.** Is a vision screening by a PCP sufficient as follow-up vision care may or may not be a covered service?