



Sept. 30, 2011

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9992-IFC2
P.O. Box 8010
Baltimore, MD 21244-8010

Re: Comments on women's preventive health services

To whom it may concern:

Thank you for the opportunity to comment on the amendment to the interim final regulation governing preventive health services issued as part of the Affordable Care Act. VIVA Health is an HMO licensed in the state of Alabama covering more than 50,000 members in both fully insured and self-insured group health plans.

While the amendment deals specifically with an exception allowed for religious institutions, our comments relate to both the exception and the required women's health services. As the interim final rule on preventive services was issued more than a year before the Health Resources and Services Administration adopted comprehensive guidelines for women's services, this comment period is the only logical forum in which to raise concerns about the women's guidelines.

HRSA Guidelines – More guidance needed

The guidelines adopted by HRSA are overly broad and seem to require health plans to cover items at 100 percent that have not been covered previously at any level. Specifically, the requirement to cover "all Food and Drug Administration approved contraceptive methods" seems to include over-the-counter products such as condoms, sponges and foam.

We would ask the Center for Consumer Information and Insurance Oversight to issue clarification that over-the-counter contraceptives are not required to be covered by health plans. To require coverage of currently non-covered items will cause premiums to rise. Further, we do not want to be in the business of deciding how many condoms a month a person is entitled to under the rules.

Guidance issued by the U.S. Department of Health and Human Services indicates that a health plan could implement reasonable medical management such that it did not have to cover at 100 percent oral contraceptives for which a generic equivalent exists. We believe the guidance should go further. We request that health plans not be required to cover drugs not on its formulary. Also, we believe offering a generic interchange in the same class as a brand name, even if not therapeutically equivalent, is sufficient coverage for preventive purposes. Otherwise,



plans will be paying 100 percent for drugs such as Natazia, which has an average wholesale price of \$279 for a three-month supply.

Other issues that need to be clarified are whether all forms of sterilization, including male sterilization, must be covered at 100 percent. If a woman's form of birth control is for her husband to get a vasectomy, must a plan cover the procedure if the husband is not a member of the health plan? What if the woman's partner is not her husband? Surely there is some limit to a health plan's requirement to prevent a woman's unintended pregnancy. The HRSA guidelines do not indicate a limit.

Many plans exclude coverage for a dependent child's pregnancy. Must that plan nevertheless cover the prenatal care for a Subscriber's unborn grandchild? Requiring coverage of such formerly uncovered benefits – no matter how beneficial to the recipient – will cause an insurer's costs to rise. An increase in medical costs will result in an increase in premiums. An increase in premiums will affect consumers' access to health insurance.

Religious exemption too narrow

While HRSA guidelines for coverage of women's services are too broad, the religious exemption from coverage of contraceptives is too narrow. As written, the amendment would allow only a church to qualify for the exception. What about a Catholic hospital system? Many Catholic hospitals do not allow tubal ligations or vasectomies in their hospitals or in doctors' offices owned by the hospitals. Such hospitals are under the moral imperatives of the Catholic Church. To force those institutions to provide coverage to its employees for services contrary to those imperatives is wrong.

Thank you for your consideration. Please feel free to contact me if you have any questions.

Sincerely,

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