



EXPRESS SCRIPTS®

601 Pennsylvania Ave., NW, Ste. 780 South
Washington, DC 20004

September 17, 2010

Jay Angoff
Director
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
Room 445-G
200 Independence Avenue, S.W.
Washington, DC 20201

Attention: OCIIO-9992-IFC

Dear Mr. Angoff:

Express Scripts Inc. (ESI) appreciates the opportunity to submit comments on the “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,” published in the Federal Register on July 19, 2010. Express Scripts is one of the largest pharmacy benefit management (PBM) companies in North America, providing PBM services to over 60 million patients. We serve thousands of client groups, including managed-care organizations, insurance carriers, third-party administrators, employers and union-sponsored benefit plans. Express Scripts is headquartered in St. Louis, Missouri.

Express Scripts is generally supportive of the interim final rule. We are particularly supportive that the IFR recognizes the appropriateness of and continues to allow plan sponsors to use “reasonable medical management techniques” when managing their preventive services benefits. Allowing plans to determine the frequency, method, treatment or setting for items or services to the extent that such services are not specified in the reference recommendations or guidelines will give plans flexibility to design their benefits.

While we are generally supportive, we do believe there is one area of the IFR that needs clarification, and respectfully request that the agency consider these comments as it finalizes this rule.

Coverage of Preventive Health Services (26 CFR 54.9815-2713T, 29 CFR 2590.715-2713, and 45 CFR 147.130)

Section 2713 of the PHS Act, as amended by PPACA, requires group health plans and health insurance issuers to provide benefits and prohibits the imposition of cost-sharing for items or services rated A or B in the current recommendations of the U.S. Preventive Services Task Force (USPSTF). These recommendations are for a variety of screening and counseling measures for primary care clinicians and health systems to encourage patients to engage in behaviors to promote disease prevention (for example, to participate in tobacco cessation interventions, take over-the-counter medications (such as aspirin), apply topical fluoride, or take dietary supplements (such as iron supplementation)).

It is important to note that the mission of the U.S Preventive Services Task Force is “ to evaluate the benefits of individual services based on age, gender, and risk factors for disease; make recommendations about which preventive services should be incorporated routinely into primary medical care and for which populations; and identify a research agenda for clinical preventive care.” When developed, the recommendations were not intended to apply to insurance coverage decisions, which may explain the discrepancies between the language of the recommendations and standard coverage policies. ESI does not believe the USPSTF recommendations require insurers to provide coverage for products that may be recommended by the consulting physician, such as over-the-counter drugs or dietary supplements, which are not covered by insurance.

Moreover, PPACA removed over-the-counter products from Flexible Savings Account eligibility unless the subscriber has a prescription. Requiring coverage of over-the-counter products under this section of PPACA would seem inconsistent with this exclusion.

ESI recommends that the Departments clarify that the required coverage for preventive services is for consultation and screenings provided by physicians and other qualified health care providers, as recommended by the U.S. Preventive Services Task Force, and not for any products that may be discussed or recommended during such consultations or after such screening tests are performed. This is consistent with the language in the preamble that describes the “aspirin to prevent CVD” recommendation as “discussing aspirin use with high-risk adults.”

In closing, we appreciate your consideration of our comments and look forward to continuing to work with the Department on successful implementation of PPACA.

Sincerely,

A handwritten signature in black ink that reads "Mary Rosado". The signature is written in a cursive, flowing style.

Mary Rosado
Vice President, Federal Government Affairs