



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

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September 16, 2010

Jim Mayhew
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Attention: OCIO-9992-IFC

Dear Mr. Mayhew:

On behalf of First Focus, I appreciate the opportunity to comment on the Interim Final Rule (IFR) for Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services under the Patient Protection and Affordable Care Act (PPACA) (45 CFR Part 147). First Focus is a bipartisan children's advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. Our core mission is to ensure that all of our nation's children are able to get the health care services they need and deserve.

First and foremost, we applaud the provisions of the IFR which recognize that children have unique health and developmental needs and require a benefit structure that differs from that of adults. We are particularly grateful that the IFR incorporates the standard of care for children that is outlined in the *Bright Futures* guidelines, including age-appropriate and timely access to regular preventive health care services such as well-child visits, immunizations, and physical examinations, as well as vision, oral, mental, and developmental health services. Establishing a solid benefits framework that recognizes the unique needs of children will go a long way toward improving health care quality and outcomes for all children in America.

We urge the Administration to clarify in the Final Rule that the Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) mandate applies to all Medicaid managed care contracts. While the Medicaid statute requires that all of the more than 30 million children who receive coverage through Medicaid have access to the full range of EPSDT services, the reality is that scores of kids do not. The disparate implementation of the Medicaid EPSDT requirement across the states has long been a concern. The Final Rule provides an important opportunity to clarify the EPSDT requirement and to improve the provision of EPSDT-covered services by the private plans that contract with Medicaid.

We also appreciate the provisions of PPACA that require health insurers to provide benefits, with no cost-sharing, for preventive health services. We are particularly thankful that preventive services for infants, children, and adolescents are specifically identified. Along these lines, though, we request that the Administration provide additional guidance on this provision. It is not uncommon during a preventive visit for a provider to detect, diagnose and offer treatment for an unreported medical condition. While the preventive portion of the visit should not be assessed

any cost-sharing, the additional diagnosis may be subject to a co-payment. We are concerned that there may be some confusion for families about the application of this provision and we urge the Administration to establish guidelines so that families have a solid understanding about when cost-sharing is applicable. It is important for families that there are no reimbursement incentives for providers to delay acute care services if they are needed or for a reimbursement-related issue to create a need for a family to schedule a separate visit if a medical condition is detected during a well-child visit.

We also urge the Administration reconsider the carve-out for “grandfathered” plans from this IFR. The evidence is clear that providing children with clinically-appropriate preventive care ensures that health issues are diagnosed and treated before they become more serious, or costly to treat. By making a distinction between health plans, we are concerned that essential preventive care may be delayed for those children enrolled in grandfathered plans. In addition, the distinction between grandfathered and non-grandfathered plans is likely to cause confusion for families who may not be aware of the status of their plan. This bifurcated policy does not make sense for children whose benefits are relatively inexpensive and highly cost-effective. All health plans, regardless of their status, should be subject to the preventive benefits requirements for children.

We recommend that the Administration provide clear information in the Final Rule for consumers regarding which government entities will be responsible for enforcing these new provisions of law. Families should have clear guidance about who to contact when they have questions or disputes related to benefits or cost-sharing. Too often consumers are left to navigate complicated bureaucracies in order to get the health care services to which they are entitled. Information and resources must be available for families who have questions about benefit denials, cost-sharing, or coverage, or who would like to report potential problems or violations.

In closing, we are concerned about the ability of children and families to access the important services provided under this new rule. Without concerted education and outreach to families and providers, families may not understand what preventive benefits are available, indeed required, by their health plans. We encourage you to work with states and insurance commissioners to develop resources for providers as well as family-friendly resources to promote the preventive benefits, especially as they relate to children’s services. Again, we strongly recommend that there is a strong and clearly defined federal role in monitoring and enforcing these new coverage and benefits requirements, particularly by working with states to ensure plan compliance.

We applaud the Administration for all of its efforts to improve access to care for everyone in America, including our children. We are grateful for the opportunity to comment on this important policy. We would be happy to provide any additional information you may require.

Sincerely,



Bruce Lesley
President