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Docket: IRS-2010-0017

Requirement for Group Health Plans and Health Insurance Issuers to Provide Coverage of Preventive Services under the Patient Protection and Affordable Care Act

Comment On: IRS-2010-0017-0002

Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services; etc.

Document: IRS-2010-0017-0030

Comment on FR Doc # 2010-17242

Submitter Information

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Organization: New Yorkers for Accessible Health Coverage

General Comment

New Yorkers for Accessible Health Coverage (NYFAHC) is a statewide coalition of 53 voluntary health organizations and allied groups who serve and represent people with chronic illnesses and disabilities, including mental illness for whom access to affordable, accessible comprehensive health coverage is essential to maintaining their well being. We appreciate this opportunity to comment on interim final rules implementing the Patient Protection and Affordable Care Act (ACA) provisions regarding coverage of preventive services. (26 CFR § 54.9815-2713T, 29 CFR § 2590.715-2713, 45 CFR § 147.130)

We strongly support requirements that insurers cover preventive services without cost sharing. We do have a few concerns regarding the frequency, method, treatment or setting of recommended services; preventive services for women; and notice and appeal rights.

Frequency, Method, Treatment or Setting

The regulations generally provide for the adoption of the recommendations of the United States Preventive Task Force (A or B), the recommendations of the Advisory Committee on immunization practices that have been adopted by the CDC, and the comprehensive guidelines

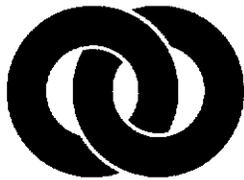
supported by the Health Resources and Services Administration with respect to infants, children, adolescents and women. However they also provide at (a) (4) that the plan issuer can use "reasonable medical management techniques" to determine frequency, method, treatment, or setting to the extent that it has not been specified in the recommendation or guideline. The regulations should either clearly define "reasonable medical management techniques" or should require that the plan use and publicly identify a credible reference or source in making such determinations. There also should be a right to appeal, both internal and external, these determinations.

Form or Method of Screening

Where a recommendation does not specify the form or method of screening, we are concerned that plans or issuers will

Attachments

IRS-2010-0017-0030.1: Comment on FR Doc # 2010-17242

**New Yorkers For Accessible Health Coverage****Member Organizations**

American Association of Kidney Patients,
New York chapter
American Cancer Society
American Diabetes Association
Brain Tumor Foundation
Cancer Care
Care for the Homeless
The Center for Independence of the Disabled, NY
Cystic Fibrosis Foundation, Greater New York
chapter
Disabled in Action of Metropolitan New York
Epilepsy Foundation of Greater New York
Gay Men's Health Crisis
Hemophilia Association of New York
Huntington's Disease Society of America, New
York and Long Island chapters
Interagency Council of Mental Retardation and
Developmental Disabilities
Leukemia & Lymphoma Society, New York City
chapter
Mental Health Association of New York City
Mental Health Association of Westchester County
National Alliance for the Mentally Ill –
New York State
National Aphasia Association
National Marfan Association
National Multiple Sclerosis Society, Capital,
Long Island, New York City, Southern,
and Upstate chapters
New York AIDS Coalition
New York Association of Psychiatric
Rehabilitation Services
SHARE: Self-Help for Women with Breast and
Ovarian Cancers
SLE Foundation
West Islip Breast Cancer Coalition for Long Island

Cooperating Organizations

Alliance of Resident Theaters of New York
Brooklynwide Interagency Council of the Aging
Citizen Action of New York
Commission on the Public's Health System
Community Healthcare Network
Dance Theater Workshop
Greater New York Labor-Religion Coalition
Institute for Puerto Rican and Hispanic Elderly
Joint Public Affairs Committee for Older Adults
Lambda Legal Defense and Education Fund
Long Island Progressive Coalition
Medicare Rights Center
Metro New York Health Care for All Campaign
National Association of Social Workers,
New York City chapter
New York State Health Care Campaign
New York State Nurses Association
New York State Psychological Association
New York Statewide Senior Action Council
Senior Services
Society for Hospital Social Work Directors,
Metropolitan New York chapter
South Fork Community Health Initiative
William F. Ryan Community Health Center

September 17, 2010

Secretary Timothy Geithner
Department of the TreasurySecretary Hilda Solis
Department of LaborSecretary Kathleen Sebelius
Department of Health and Human Services
Office of Consumer Information and Insurance Oversight
P.O. Box 8016
Baltimore, MD 21244-1850

Attention: OCIO-9992-IFC,

To Whom it May Concern:

New Yorkers for Accessible Health Coverage (NYFAHC) is a statewide coalition of 53 voluntary health organizations and allied groups who serve and represent people with chronic illnesses and disabilities, including mental illness for whom access to affordable, accessible comprehensive health coverage is essential to maintaining their well being. We appreciate this opportunity to comment on interim final rules implementing the Patient Protection and Affordable Care Act (ACA) provisions regarding coverage of preventive services. (26 CFR § 54.9815-2713T, 29 CFR § 2590.715-2713, 45 CFR§ 147.130)

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Frequency, Method, Treatment or Setting

The regulations generally provide for the adoption of the recommendations of the United States Preventive Task Force (A or B), the recommendations of the Advisory Committee on immunization practices that have been adopted by the CDC, and the comprehensive guidelines supported by the Health Resources and Services Administration with respect to infants, children, adolescents and women. However they also provide at (a) (4) that the plan issuer can use "reasonable medical management techniques" to determine frequency, method, treatment, or setting to the extent that it has not been specified in the recommendation or guideline. The regulations should either clearly define "reasonable medical management techniques" or should require that the plan use and publicly identify a credible reference or source in making such determinations. There also should be a right to appeal, both internal and external, these determinations.



Form or Method of Screening

Where a recommendation does not specify the form or method of screening, we are concerned that plans or issuers will only cover a less costly and less effective form of screening. For example where a recommendation is for counseling, but the recommendation is silent as to form, plans may only cover recorded telephone messages, rather than face-to-face counseling.

High Risk populations

Some USPSTF recommendations address screenings for high risk populations, others do not. Where individuals are at high risk for a certain condition and a physician recommends more frequent screenings than the USPSTF and the recommendation is silent as to recommendations for high-risk populations, the physician should trump the health plan and the individual should be eligible for no-cost screenings.

Services not recommended

The Departments' regulations provide at section (a) (5) that nothing prohibits plans or issuers from denying coverage for items or services that are not recommended by a task force or committee. With respect to the USPSTF recommendations, it is clear that the no cost sharing requirement only attaches to A or B screenings, but plans or issuers should only be allowed to deny coverage for services that receive a grade D which the USPSTF actually recommends against the service due to evidence that the service is ineffective or that the harm outweighs the benefits. Services that are simply not addressed by the USPF should be covered, if recommended by a treatment provider, albeit with a co-pay.

Women's Preventive Services

The recommendations for women's preventive services to be covered and exempted from cost sharing under these provisions has been left to the Health Resources and Services Administration, which is contracting with the Institute of Medicine to develop. There is strong public health consensus and federal policy which supports treating contraception as preventive care. This process needs to be fast tracked so that an interim guideline can be provided immediately mandating no cost coverage for those services that are clearly recognized as part of the standard of care.

Notice and Appeal

There should be notice provided to plan enrollees about the preventive screenings and HHS/DOL should provide a form to use. The regulations are silent as to enforcement /oversight. The regulations should clearly address this with appeal rights and specific HHS/DOL oversight.

We appreciate this opportunity to comment these proposed rules. Thank you for your attention in this matter.

Sincerely,

NYFAHC



Heidi Siegfried, Esq.
Program Director