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October 19, 2011

The Honorable Kathleen Sebelius
Secretary, US Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
Washington, DC, 20201

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**RE: File Code CMS 9982-P and CMS 9982-NC
45 CFH Part 147 Summary of Benefits and Coverage and the Uniform
Glossary, and
Rules on Summary of Benefits and Coverage and Uniform Glossary—
Templates, Instructions, and Related Materials**

Dear Secretary Sebelius:

The American Academy of Pediatrics (AAP), a non-profit professional organization of 60,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialties, providing medical care to over 70 million children and adolescents, is dedicated to the health, safety and well-being of infants, children, adolescents, and young adults. The AAP appreciates this opportunity to comment on the Proposed Rule regarding Summary of Benefits and Coverage {45 CFR Part 147} as published in the Federal Register on August 22, 2011.

The Academy appreciates the intent of the proposed Summary of Benefits and Coverage (SBC) to provide a concise summary of the benefits coverage to allow for a comparison of health plans and their potential out of pocket expenses. However the AAP was disappointed to see that there were no pediatric specific examples provided in the summary. This critical oversight needs immediate correction and the AAP would welcome the opportunity to work with the Department of Health and Human Services in developing pediatric examples. As the SBC is intended to be used by families in comparing coverage, it is essential that pediatric examples be included.

Attached are specific comments regarding the SBC, the uniform glossary and the template and instructions. In addition to strongly urging inclusion of pediatric examples to the SBC, appropriate accommodations should be made for the SBC to be available in non-English languages. Further, the AAP would urge that any potential administrative costs borne by health plans in providing the SBC are not passed on to plan members or providers in the form of reduced benefits or payment.

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Thank you for the opportunity to comment on the SBC. The AAP welcomes the opportunity to work with the Departments in developing specific pediatric examples as part of the SBC. Please do not hesitate to contact Robert Hall in the AAP Washington, D.C. office at 202/347-8600 or rhall@aap.org. We look forward to future collaborations as you continue implementation of the Affordable Care Act to improve the care of children in the United States.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Block". The signature is written in a cursive style with a long horizontal stroke at the end.

Robert W. Block, MD, FAAP
President

RWB/lt

American Academy of Pediatrics (AAP or the Academy) Comments in Response to U.S. Department of Health and Human Services (HHS), Internal Revenue Service (IRS), Department of the Treasury, Employee Benefits Security Administration, Department of Labor, Centers for Medicare and Medicaid Services (The Departments) on:

Summary of Benefits and Coverage and the Uniform Glossary, and

**Rules on Summary of Benefits and Coverage and Uniform Glossary—Templates, Instructions, and Related Materials; Solicitation of comments
Federal Register vol 78 no. 162, August 22, 2011**

The American Academy of Pediatrics is dedicated to the health of infants, children, adolescents and young adults. Pediatricians and pediatric sub-specialists provide medical care for over 70 million U.S. infants, children, adolescents and young adults in the United States. The AAP has long advocated for access to comprehensive health care benefits for children and adolescents.¹

A key component of access is health literacy which is defined as the degree to which individuals have the capacity to obtain, process, and understand basic health information and services needed to make appropriate health decisions.² Health literacy includes an understanding of health insurance benefits and coverage, which tend to be highly complex and confusing in both description and application.

The Academy endorses promoting health literacy for parents, children, adolescents and young adults with a particular focus on low income and non-English-speaking populations.³ Studies suggest that while individuals with limited health literacy come from many walks of life, the problem of limited health literacy is often greater among older adults, people with limited education, and those with limited English proficiency.⁴

Therefore, the AAP supports the intent of Section 2715 of the PHS Act that standards be developed for use by a group health plan and a health insurance issuer in compiling and providing a summary of benefits and coverage (SBC) that “accurately describes the benefits and coverage under the applicable plan or coverage.” The AAP provides the following comments and urges the Departments to incorporate pediatric specific examples for the SBC. The Academy also recommends that non-English version of SBC materials be provided given the ethnic diversity of the U.S. pediatric population. Further, while carriers may cite concerns regarding the additional cost creating these materials may provide, it is imperative that these costs not be passed on to providers by reduced payments or any other means that have the effect of reducing coverage benefits to patients.

45 CFH Part 147 Summary of Benefits and Coverage and the Uniform Glossary

The proposed rule includes provisions on a uniform glossary and on coverage examples that illustrate the benefits provided by the plan for common benefits scenarios. The proposed rule allows for up to six (6) examples to be provided in the SBC. Three examples have already been created that focus primarily on adult related services (having a baby, treating breast cancer, managing diabetes) and the absence of specific pediatrics only examples is glaring. The importance of child health care coverage is evidenced under the Affordable Care Act (ACA)

given the requirement for all health plans to cover, with no cost-sharing for families, the preventive services for children recommended in *Bright Futures: Guidelines for Health Supervision of Infants, Children and Adolescents, 3rd ed.*, as well as guaranteed health insurance coverage for children under age 19 with pre-existing medical conditions if they are enrolled in insurance plans. Additionally, it is commonly accepted that an important consideration by families in choosing a health plan is the availability of their child's pediatrician within the health plan provider network, another important protection for consumers embedded in the law.

To fully underscore the intent of the SBC as a resource for families to assess health plans, it is vital that pediatric examples be included in the SBC. Failure to include pediatrics in the remaining examples would impair the capacity for families to fully evaluate the coverage and potential out of pocket expenses for all covered family members (particularly children, adolescents and young adults). The AAP offers to work with the Departments in developing pediatric examples for the SBC including, but not limited to, an example of well child preventive care, and an example of care for children with special health care needs involving specialty pediatrics.

Pediatrics differs from adult care. This is primarily due to the changing physical, mental, cognitive and developmental status of the patient as well as an emphasis on preventive health care services. As the ACA requires all health plans to cover the preventive services for children recommended in *Bright Futures: Guidelines for Health Supervision of Infants, Children and Adolescents, 3rd ed.*, it would enhance the effectiveness of the SBC to include pediatric examples of well child care services. One such example may be of a family using an important preventive services guaranteed by the new law such as screenings (hearing, vision, developmental, etc.) and immunizations. This could serve the dual purpose of both educating the public regarding their new rights while at the same time serving an important public health goal of boosting screening and immunization rates. For example by illustrating hearing screening would reinforce the impact of identifying as early as possible children with impaired hearing – and opportunities to enhance communication, development, education and productive future citizenship in the workplace.

Additionally, pediatric examples should include children and youth with special health care needs (CYSHCN) who are defined by the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA), Maternal and Child Health Bureau (MCHB) as:

"those who have or are at increased risk for a chronic physical, development, behavioral, or emotional condition and who also require health and related services of a type or amount beyond that required by children generally" .

Approximately 10.2 million children in the US, which represents 14 percent of all US children, have special health care needs based on the MCHB definition. More than a fifth of US households with children have at least one child with special needs.⁴ CYSHCN are estimated to account for 70% of pediatric health-care expenditures⁵ as well as require advanced coordinated care among physician and non-physician providers. Given the prevalence of children with

special health care needs and greater cost, the effectiveness of the SBC for families would be greatly enhanced by including examples of specialty pediatrics.

Requested Comments

The Departments invite comments on whether and how to phase in the implementation of the requirement to provide coverage examples. The AAP recommends that coverage examples should be phased into the SBC at the same time as the requirements for providing the SBC. This will provide timely comprehensive information to the plan member beneficiary as they review the SBC.

Comments are also requested regarding whether the SBC should include premium or cost information and if so, the extent to which such information should reflect the actual cost to an individual net of any employer contribution, as well as the extent to which the cost information should include costs for different tiers of coverage (for example, self-only, family). The AAP recommends that all potential expenses be identified in the SBC including the premium payable by the plan member and all out of pocket expenses. A listing of the plan member's financial responsibility for the covered services would allow for meaningful comparisons of the coverage and out of pocket expenses. These lists may also enhance consumers' understanding and acceptance of their new rights under the law.

The Departments also invite comments on the uniform glossary, including the content of the definitions and whether there are additional terms that are important to include in the uniform glossary so that individuals and employers may understand and compare the terms of coverage and the extent of medical benefits (or exceptions to those benefits). The Departments are considering whether glossary definitions of any of the following terms would be helpful: claim, external review, maternity care, preexisting condition, preexisting condition exclusion period, or specialty drug. In addition to including these terms, the AAP recommends that the following terms also be included:

Formulary: List of the medications an insurance plan will cover and the rules on covering them.

Open Enrollment: The time of year when an individual can enroll in the health plan or change health plans.

Policy period: The time period in which health benefits coverage is provided under the plan.

This may also be referred to as the plan year and members need to note that it may or may not coincide with the calendar year or be another time period designated by the health plan.

Tiered Benefit Payment: The level of payments based on pre-determined criteria. For example, a plan may require a \$10 copayment for a generic drug; \$20 for a formulary approved drug, and \$30 for a brand name, non-formulary drug.

For definitions listed in the uniform glossary, the AAP recommends that health insurers define medical necessity as health interventions for children that take into account all of the criteria outlined in the AAP statement Model Contractual Language for Medical Necessity for Children.⁶

The Departments encourage comments on whether and how to provide written translations of the SBC in non-English languages. The Academy would urge that the SBC be available in languages other than English. The pediatric population is increasingly diverse in terms of

ethnicity. In 2009, 48 percent of children born in the US were minorities. Immigrant youth (defined as children under age eighteen who are either foreign-born or US born to immigrant parents) are the fastest growing segment of the US population today, with Hispanic children the fastest increasing among them. Nearly a quarter of US schoolchildren are immigrants or children of immigrants.⁷ It is imperative that insurance plans that cover children with diverse ethnic and cultural backgrounds include information that is accessible by them and their families.

45 CFH Part 147 Summary of Benefits and Coverage and the Uniform Glossary - Templates, Instructions, and Related Materials Under the Public Health Service Act

The proposed Rules on Summary of Benefits and Coverage and Uniform Glossary—Templates, Instructions, and Related Materials; Solicitation of comments, published in the Federal Register on August 22, 2011 (CMS-9982-NC) _ includes templates and instructions to be used by group health plans and health insurance issuers in making disclosures of the summary of benefits and coverage and the uniform glossary. The Federal Register document proposes a template for an SBC; instructions, sample language, and a guide for calculating coverage examples to be used in completing the template; and a uniform glossary that would satisfy the disclosure requirements.

The SBC template is intended to be used by all types of plan or coverage designs. The Academy recommends that the template design and content include information on out of pocket expenses for different types of plan or coverage designs. Today, health care financing includes health plan designs using tiered provider networks, varying payments based on selected providers and/or services as well as multiple level service providers to provide categories of benefits within a benefit package. To allow for adequate comparison of health plans by the plan member, the SBCs need to identify the level of benefits and payments by the plan. Therefore, the SBC design should include the total expected out of pocket expenses offered by the health plan.

The SBC would be provided in a hard copy format and it is also recommended that it be available on-line to allow for easy reference by families.

Any changes in benefits coverage policy, including but not limited to exclusions, additional coverage benefits, changes in grandfather status of the plan and payment policy affecting the out of pocket expenses of the plan member must be communicated in writing to the plan member as well as to applicable providers. It is recommended that an updated SBC would be provided to the plan member 30 days prior to the change becoming effective with highlights of the affected areas of the SBC. Notification of providers is an important consideration as well given the impact on their billing operations.

The fourth page of the SBC template includes a list of services that plans and issuers must indicate as either excluded or covered in the “Excluded Services & Other Covered Services” chart. The AAP recommends that the list also include (either as exclusions or other covered services as may be the case with the particular health plan) the following:

- obesity evaluation and treatment,
- oral health care by your medical physician,
- mental health evaluation and treatment by your medical physician, and
- non-face to face care including telephone care and electronic care.

With the prevalence of child, adolescent, young adult, and adult obesity, it is important for plan members to understand the extent of their benefits coverage for obesity. Additionally, with the passage of mental health parity, information on the degree of benefits coverage for mental health services is also a necessary component for families in comparing benefit plan coverage. Within the pediatric population, oral health is an integral part of the overall health of children.⁸ Knowing the degree of benefits coverage for oral health will assist families in understanding the scope of their benefits coverage for this medically necessary pediatric service. Lastly, telephone care is an increasing component of the pediatric practice due to expectations for enhanced access to care, 2-parent employment, the use of cellular phones and other forms of electronic communication. As a cost-containment strategy, telephone triage and advice, combined with indicated prescriptive therapy, often serves as a convenient substitute for a patient visit to the office, urgent care center, or emergency department (ED). Telephone care is seen as a means to improve triage, provide advice for acute illnesses, and improve clinical and functional outcomes for the chronically ill patient.⁹

The AAP believes the disclosure statement on the first page of the SBC template adequately conveys that the message that the SBC is not the actual policy and does not include all of the coverage details found in the actual policy.

Thank you for your attention to the views of the American Academy of Pediatrics.

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