



The Honorable Xavier Becerra
Secretary
US Department of Health and Human Services
200 Independence Ave
Washington, DC 20201

Dear Secretary Becerra,

On behalf of Patients Rising Now (PRN), I would like to thank you for holding open a comment period on the critical issue of ensuring continued patient access to Essential Health Benefits (EHBs).

Formed in 2015, Patients Rising Now has developed a significant following of over 110,000 patients and caregivers and has guided them on their journeys to advocate for themselves and their loved ones to get the care and treatments they need to live a fulfilling life. As a patient advocacy organization, PRN supports reforms and legislation aimed at advancing patient access to affordable, quality healthcare.

The inclusion of EHB in the Patient Protection and Affordable Care Act (PPACA) saves patients from discovering that the necessary care they needed would not be covered by their insurer. Too often, patients ration prescriptions or entirely forgo care due to cost, which would have continued to be the case were it not for EHB coverage being mandated. These considerations ensure patients won't be blindsided by the hospital bill after services were rendered. The reasoning for EHB policy is sound, but there are areas where improvements can be made.

The EHBs were created to provide the best and critical care to all patients, regardless of insurance. It is important that EHBs be broadly interpreted to cover the full range of FDA-approved treatments, not select low cost treatments preferred by health plans. To ensure compliance with this broad mandate, it is also critical that health plans be held accountable if they are not complying with this broad and important mandate on EHBs.

The 10 outlined EHBs are comprehensive in scope and largely self-explanatory. However, some of the items listed as EHBs are somewhat broad in their definition and can, therefore, be open to interpretation and scrutiny. As noted in the second paragraph of section II of CMS' request for information, "...EHB-benchmark plan documents can describe the covered benefits differently, which may create ambiguity in defining the EHB in a particular State." While States submit their own benchmark plans for covering EHBs, the policy regarding these plans stems from definitions and criteria set forth by HHS. For this reason, Federal Agencies must step up and provide further clarity in defining EHBs. Uniformity in definitions would ensure that patients in one State are treated as equally as possible to patients in other States with respect to covered care.

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To refer back to section II of the RFI, and to give further context, it was the State of Mississippi which included the phrase “medically necessary care” in their definition of emergency transportation. This provides a clear definition of emergency transportation and additionally points to the potential for HHS to expand the scope of EHBs. A major facet of the Patients Rising organization is The Patient Helpline: a concierge-like resource hub for patients who need help with any host of issues relating to their care. Far and away the most frequently requested form of assistance is transportation to and from the doctor’s office. This type of transportation falls outside of the purview of covered care given its nature as a non-emergency transportation. Examples such as this point to the growing necessity to expand EHB definitions, and in so doing, increase patient access to care. Patients Rising Now wholeheartedly supports the addition of non-emergency transportation as an EHB.

In tandem with clarifying definitions for EHBs, HHS should institute two changes: include itemized lists, where appropriate, for services and treatments that qualify as EHBs in their respective category and take measures to address specific barriers to care such as copay accumulators/maximizers. In regards to the former, the ‘Preventative and wellness services’ section contains a detailed, itemized list of services covered. The lack of a readily available and public list creates ambiguity in the policy and could discourage patients from seeking care, but an itemized list remedies both issues simultaneously.

And with respect to copay accumulators, the PPACA outlines policy for copayments. But, it does not address copay accumulators: a process by which insurers disqualify payments made on behalf of patients for prescriptions from counting towards their OOP maximums and/or deductible. To further complicate matters, insurers utilize a practice where they select a State benchmark plan with a lower minimum requirement to deem items and services that would otherwise be EHBs as non-EHB, which results in the OOP cost of those services and items not counting towards a patient’s OOP maximum. As part of the ‘prescription drugs’ portion of EHBs, it needs to be stated unequivocally that covered prescription drugs are not subject to the use of copay accumulators, and anything currently defined as an EHB remains as such for the purposes of the cost-sharing limit. Otherwise, these harmful practices can continue.

Patients Rising Now feels these changes would strengthen the already sound EHB policy. I and my organization are more than happy to offer ourselves as a resource. If you have any questions, please feel free to reach out via email (rachel@patientsrising.org). Thank you again for allowing public comments on this critically important issue.

Sincerely



Rachel Derby
Executive Director