



Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS–2334–P  
RIN: 0938-AR04  
P.O. Box 8016  
Baltimore, MD 21244–8016.

February 21, 2013

*RE: Comments on Medicaid, Children’s Health Insurance Programs, and Exchanges: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid and Exchange Eligibility Appeals and Other Provisions Related to Eligibility and Enrollment for Exchanges, Medicaid and CHIP, and Medicaid Premiums and Cost Sharing*

The American College of Physicians (ACP), the largest medical specialty organization and the second-largest physician group in the United States, appreciates the opportunity to provide comments the proposed rule regarding Essential Health Benefits in Alternative Benefit Plans and other matters issued by Centers for Medicare and Medicaid Services (CMS) and published in the *Federal Register* on January 22, 2013. ACP members include 133,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

Coverage of Evidence-Based Preventive Services

College policy recommends that “public and private health insurers should encourage preventive health care by providing full coverage, with no cost-sharing, for preventive services recommended by an expert advisory group, such as the U.S. Preventive Services Task Force.”<sup>i</sup>

ACP strongly supports the provisions within the Affordable Care Act that encourage coverage of evidence-based preventive services without cost sharing, including section 2713, which requires non-grandfathered group health

plans and health insurance coverage offered in the individual or group market to provide benefits for and prohibit imposition of cost-sharing requirements with respect to evidence-based preventive services, including those rated “A” or “B” by the U.S. Preventive Services Task Force and Advisory Committee for Immunization Practices recommended vaccines. ACP appreciates that the proposed rule clarifies that Medicaid alternative benefit plans must cover preventive services as defined in the proposed rule released on November 20, 2012, Patient Protection and Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation. In that proposed rule, 156.115 stated that the essential health benefit package is required to include preventive services described in 147.130 of the subchapter, which states, “a group health plan, or a health insurance issuer offering group or individual health insurance coverage, must provide coverage for all of the following items and services, *and may not impose any cost-sharing requirements (such as a copayment, coinsurance, or deductible)* with respect to those items or services... [italics added].” However, after outlining the range of preventive services covered in the EHB benchmark package, the January 22, 2013 proposed rule on essential health benefits for Medicaid alternative benefit plans states that “Title XIX premium and cost-sharing provisions apply to preventive services.” This statement seems to conflict with the definition of EHB package established in the November 20, 2013 proposed rule.

ACP recommends that Medicaid alternative benefit plans be required to provide preventive services without cost-sharing as defined in the November 20, 2013 proposed rule, including those rated “A” or “B” by the U.S. Preventive Services Task Force, and requests clarification on the provision. This would align Medicaid alternative benefit plans with private insurance coverage and improve access to vital services that will mitigate the spread of chronic disease in the Medicaid population while slowing health care costs.

#### 447.52-447.54: Cost-sharing Concerns

Overall, evidence shows that imposing high cost-sharing on Medicaid enrollees may force those with little or no income out of the program.<sup>ii</sup> Although ACP believes that cost-sharing can help reduce the use of inessential care and curb rising health care costs, such requirements may cause patients, especially low-income individuals, to delay or forego necessary care. For example, the proposed rule seeks to amend the Medicaid cost sharing rules for non-emergency care provided in an emergency department. While the College strongly supports the delivery of health care services by the most appropriate physician or other health care provider in the most appropriate setting, it should be acknowledged that patients in underserved areas may have no other option but to visit an emergency department to receive care.<sup>iii</sup> A patient may also believe their condition to be more severe than the reality, leading them to visit the emergency department as a precautionary measure even when the condition could be handled by a primary care physician.

This is a complex problem that points to a variety of deficiencies in our nations’ health care system, such as the lack of primary care physicians (particularly in the Medicaid program), limited patient health literacy, and the uneven distribution of health care practitioners. ACP strongly supports efforts to improve the primary care workforce and strengthen care coordination, particularly through the patient-centered medical home, solutions that may help to

minimize the misuse of emergency departments. ACP appreciates the safeguards proposed in the rule to permit cost-sharing only after it is determined that the patient does not have a more suitable alternative provider, as well as leeway on defining emergency care but maintains that determination should be based on what is known by the patient at the time the emergency care is sought, rather than what is later learned as a result of the emergency department visit.

Policies to increase cost-sharing on Medicaid beneficiaries, whether for prescription drugs, care furnished in an emergency department, or other services, especially for patients in areas designated to be medically underserved, should be implemented with caution to ensure that patients do not face cost-sharing requirements that lead them to delay or forego necessary care.

Sincerely,

A handwritten signature in black ink that reads "David Bronson". The signature is fluid and cursive, with the first name "David" being more prominent than the last name "Bronson".

David Bronson, MD FACP

President

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<sup>i</sup> American College of Physicians. Controlling Health Care Costs While Promoting the Best Possible Health Outcomes. Philadelphia: American College of Physicians; 2009: Policy Monograph.

<sup>ii</sup> Wright BJ, Carlson MJ, Allen H, Holmgren AL, Rustvold DL. Raising Premiums and Other Costs for Oregon Health Plan Enrollees Drove Many to Drop Out. *Health Aff.* December 2010; 29(12): 2311-2316.

<sup>iii</sup> Kellerman AL, Weinick RM. Emergency Departments, Medicaid Costs, and Access to Primary Care – Understanding the Link. *N Engl J Med.* S012;366(23):2141-2143.