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DEPARTMENT OF INSURANCE

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BULLETIN NO. 14-02

DATE: May 9, 2014
TO: Disability/Health Insurance Carriers in Individual or Small Group Markets
FROM: William Deal, Director
SUBJECT: Pediatric Dental Coverage and Reasonable Assurance

The following guidance applies to carriers issuing essential health benefits (EHB) compliant individual or small group health benefit policies effective January 1, 2015 or later, issued inside or outside of Your Health Idaho (YHI), the Idaho health insurance exchange, unless superseded by future guidance. It does not apply to grandfathered or non-grandfathered transitional (grandmothered) policies. The DOI encourages carriers to also follow these guidelines during 2014. If you have questions concerning this bulletin, please contact Kathy McGill or Wes Trexler at the Department of Insurance.

Section 1302 of the Affordable Care Act (ACA) requires all comprehensive health insurance plans sold in the individual or small group markets to cover all ten (10) of the EHB categories, one of which includes pediatric oral (dental) care. An exception to the requirement to include the pediatric dental care EHB in a plan is provided at section 1302(b)(4)(F) of the ACA. This exception is limited specifically and exclusively to qualified health plans (QHPs), and provides that as long as at least one exchange-certified stand-alone dental plan (SADP) is available through the exchange in the service area of the QHP, the health insurance plan need not include the pediatric dental care EHB.

The final federal rule on the Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation (78 Federal Register 12834, February 25, 2013) reinforced that the above exception applies only to QHPs: "The Affordable Care Act does not provide for the exclusion of a pediatric dental EHB outside of the Exchange as it does in section 1302(b)(4)(F) of the Affordable Care Act for QHPs. Therefore, individuals enrolling in health insurance coverage not offered on an Exchange must be offered the full ten EHB categories, including the pediatric dental benefit." 78 Fed. Reg at 12853. The rule also states that QHPs purchased outside an exchange are permitted to exclude coverage of the pediatric dental care EHB only if, prior to issuance of a QHP purchased outside an exchange, the QHP carrier becomes "reasonably assured that an individual has obtained such coverage through an Exchange-certified stand-alone dental plan... [which] ensures full coverage of EHB." *Id.*

The Idaho Department of Insurance (DOI) will apply the above referenced sections and explanation in the manner given below, with the intent to ensure the overall fairness and efficiency of the individual and small group health insurance markets. Please note that, pursuant to the final Program Integrity Rule, “a [non-SADP] plan sold to consumers exclusively outside of the Exchange could not obtain QHP certification,” therefore such a plan sold only outside of YHI is considered a “non-QHP.” *See* 78 Fed. Reg at 37044.

Applicable to QHPs when sold through Your Health Idaho

Section 1302(b)(4)(F) of the ACA provides that a QHP offered through an exchange is not required to include the pediatric dental care EHB as long as there is at least one SADP available through YHI in the full service area of the plan. Consequently, there is no additional reasonable assurance requirement for QHPs purchased through YHI. The consumer is not required to purchase separate pediatric dental EHB coverage, and the carrier must not delay enrollment in the plan due to lack of pediatric dental coverage.

Applicable to QHPs when sold outside of Your Health Idaho

The DOI recognizes the discussion in the final EHB rule providing the option for a carrier selling a QHP off-exchange to exclude the pediatric dental care EHB in its QHP if it is reasonably assured that the consumer has an exchange-certified SADP. *See* 78 Fed. Reg. at 12853. Consequently, the DOI will consider the inclusion of appropriate disclosure language on the cover pages of the enrollment forms/application for individuals, employers, and employees as prima facie evidence that the carrier is reasonably assured of other exchange-certified SADP coverage. The DOI recommends disclosure language similar to the following:

The policy you are applying for does not include coverage for pediatric dental care, which is considered an essential health benefit under the Affordable Care Act. Pediatric dental care is available in the market and can be purchased as a stand-alone product. Please contact your insurance agent, your health insurance company, or Your Health Idaho if you wish to purchase a stand-alone dental care product.

Without the disclosure, a QHP purchased outside of YHI which excludes the pediatric dental care EHB would not meet the requirement to offer all 10 EHB categories. In addition, a carrier should not request as part of the application that the consumer inform the carrier of other pediatric dental coverage, and a carrier must not require that the consumer purchase other coverage.

Applicable to non-QHPs

Neither the ACA nor the EHB rule provides an allowance for non-QHPs to exclude the pediatric dental care EHB. Non-QHPs must provide coverage of all 10 EHB categories, and non-QHPs are not eligible for the “reasonable assurance” allowance.