

August 17, 2012

SENT VIA EMAIL
exchange@health.state.ny.us

RE: New York Essential Health Benefits Benchmark Plan

Dear Sir/Madam:

I am writing on behalf of Delta Dental of New York (“DDNY”) in response to the invitation for feedback based on the August 2, 2012, Milliman Consulting study on essential health benefits for New York. We are pleased to offer some specific comments regarding the unique considerations of the pediatric dental essential benefit in the process of setting the Essential Health Benefits Package (“EHBP”). We anticipate these comments may assist you in setting the benchmark that best reflects typical small employer dental benefits for children.

The EHB Bulletin published by HHS recognizes that the initial four benchmarks proposed for determining the EHB may not contain dental benefits sufficient to set a pediatric dental essential benefit. Of note, 97 percent of dental coverage is provided through separate (standalone) dental plans or policies. Thus, we have a concern that the initial four benchmark options, while offering a range of benefit options for the EHB generally, do not accurately portray the average *dental* benefits being offered by small employers because they are medical plans and not dental plans.

We have alerted HHS that we support including as a benchmark option any of the three largest small employer plans by enrollment, provided that the benchmark for the pediatric dental essential benefit can be based on the largest *dental-specific* plans purchased by small group business employers. In light of this position - and because we are optimistic that HHS will embrace this very reasonable and consistent suggestion - we submit this initial statement reflecting the current options, but will appreciate the opportunity to supplement this in light of any change in available options presented by HHS.

On a preliminary note, we disagree with Milliman’s comments (see slide 16 of their presentation) that ‘some benchmark options [that] include dental coverage . . . would extend to adults as well as children.’ It is our interpretation of the March 16, 2012 essential health benefits bulletin issued by HHS that the final benchmark selections are meant to establish how the 10 essential health benefit categories will be satisfied by health plans. Said another way, the relevant benefits contained in the benchmark plans would be used to define the 10 essential health benefit categories, as opposed to

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each benefit of the benchmark plan being construed as an essential benefit. Therefore, benefits within an essential health category would be limited to that population for which they are meant to apply. Thus, because the oral essential health benefit category is limited to “pediatric”, a state’s selected benchmark’s covered services for dental would correspondingly be limited to children up to the defined age limit that HHS has yet to designate.

With that in mind, we believe that New York’s Child Health Plus (CHIP) dental benefit is the superior alternative to the FEDVIP dental program. Below are our reasons:

1. **The New York Child Health Plus dental benefit is a New York-developed, children-only dental program.** Adopting this package as the benchmark (as expressly permitted in the HHS Bulletin on Essential Health Benefits) helps the state avoid discontinuity of care and confusion as families go in and out of eligibility for Child Health Plus and other commercial programs.
2. By contrast, FEDVIP was developed **for federal employees in Washington, D.C. as a family policy that includes adults.** As a result, the FEDVIP package includes benefits (e.g., implants) that may not make sense for children, yet add to the overall cost of the benefit package.
3. **FEDVIP could cost the State of New York money and will be unaffordable for many families and small businesses unless the benchmark excludes non-medically necessary orthodontics.** The issue of affordability concerning orthodontics was clear to HHS, which declared in the EHB Bulletin that non-medically necessary orthodontics will not be a component of essential pediatric oral services. Selecting a benchmark that includes non-medically necessary orthodontics, such as FEDVIP, without expressly excluding those services, could be interpreted as adding a state- mandated benefit. Adding a state-mandated benefit to an EHB benchmark otherwise acceptable under the Bulletin would expose New York to the cost of making up the added premium subsidies needed by eligible enrollees for that coverage. Moreover, for enrollees who are not eligible for subsidies, adding orthodontics threatens to unravel the affordability of the pediatric oral services component of the EHB because orthodontics is an expensive, largely elective cosmetic benefit that does not treat dental disease and is therefore not essential. New York risks requiring a dental program that is so expensive that many individuals and small groups will refuse to purchase essential health benefits and simply pay the much smaller fines and penalties that go with non-compliance with the mandate.

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For these reasons, we encourage you to consider the selection of the New York Child Health Plus Program dental benefit as the benchmark, with the option to revisit this option upon any clarification of available dental benchmarks issued by HHS. If you have any questions, please do not hesitate to call me at (415) 972-8418, or our legislative advocate in Delaware, Kevin Cleary, at (518) 210-7258.

Sincerely,



Jeff Album
Vice-President, Public and Government Affairs

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