

United States Senate

WASHINGTON, DC 20510

December 18, 2012

The Honorable Kathleen Sebelius, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Sebelius:

Thank you for your continued leadership on the implementation of the Patient Protection and Affordable Care Act. We write to you to highlight our concerns about the affordability of pediatric dental benefits as they relate to proposed rule, CMS-9980-P, the “Patient Protection and Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation.”

As you know from our combined efforts, we have long advocated for children to have access to affordable, meaningful oral health services. We fought to ensure that the Essential Health Benefits of the Affordable Care Act specified that oral health services be a subset of a comprehensive set of pediatric services because oral health is essential to overall health.

Since the passage of the law, we have communicated on multiple occasions that the affordability of that benefit is as important as the benefit itself. In an effort to ensure that the marketplace offers families a choice in plans, we supported the inclusion of stand-alone dental insurers inside the exchange as long as families would enjoy the same level of consumer protections as they would if they received their dental coverage from a qualified health plan. In October of last year, we and several of our colleagues in the Senate sent a letter to you making clear our view that children who receive pediatric services from a stand-alone dental plan should have the same level of consumer protections as those children who get coverage through a qualified health plan. Additionally, in a September 2011 colloquy, Senators Bingaman, Stabenow, and Baucus clarified that the intent of allowing stand-alone dental plans inside the Exchange was not to create separate standards but to create competition in the insurance exchanges and allow consumers choice in the marketplace. The colloquy states plainly that all relevant consumer protections and cost-sharing provisions should apply equally to health and dental plans.

To that end, we urge you to address the following issues in the proposed rule to ensure that families will not face higher out of pocket expense and increased administrative burdens because they received pediatric dental services from a stand-alone dental insurer.

We are most troubled that the proposed rule proposes a separate cost-sharing limit for stand-alone dental plans in addition to the out-of-pocket maximums that will already apply to a family's essential health benefit-associated costs. The rule further states that the additional cost-sharing limit be "reasonable" but fails to define "reasonableness." Therefore, we urge you to define "reasonable" and do so in such a way that cost-sharing will be equivalent for families receiving benefits from stand-alone plans and families receiving benefits from qualified health plans. Without this assurance, we believe this standard is inconsistent with the law's clearly established affordability provisions. Moreover, families who receive benefits from stand-alone insurers will be burdened with tracking and coordinating their out-of-pocket expenses for both medical and dental insurance. We are concerned that this will result in a significant administrative burden and, consequently, fewer families taking full advantage of the benefit. How can insurance companies coordinate with one another regarding to help track families' out of pocket expenses and limits? We urge you to collect additional information and identify potential solutions that minimize the administrative burdens on families.

We are also concerned that the proposed rule establishes a separate actuarial value target for stand-alone dental plans of 75% and 85% for "low" and "high" options respectively but does not specify how this may impact the consumer from an affordability standpoint. Because the law exempts stand-alone dental plans from the cost-sharing reduction requirements of section 1402, families at or below 250% of the Federal Poverty Level (FPL) who purchase pediatric dental coverage through a stand-alone dental plan will pay more than if they were to purchase the same coverage through a health plan. We believe this issue merits further discussion and request that you do not finalize this aspect of the rule.

Again, thank you for your commitment to advancing the Affordable Care Act. We are eager to work with you to ensure that the pediatric dental portion of the Essential Health Benefit is meaningful and affordable to families.

Sincerely,



Jeff Bingaman
United States Senator



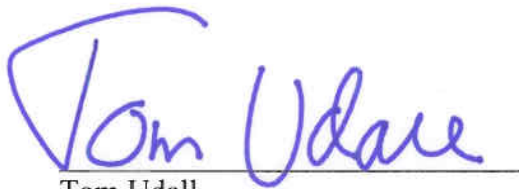
Barbara A. Mikulski
United States Senator



Benjamin L. Cardin
United States Senator



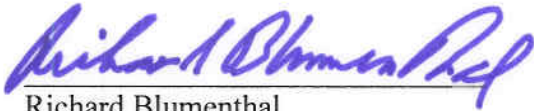
Sherrod Brown
United States Senator



Tom Udall
United State Senator



Robert P. Casey, Jr.
United State Senator



Richard Blumenthal
United States Senator



Bernard Sanders
United States Senator



Robert Menendez
United States Senator