



COLORADO

Department of
Regulatory Agencies

Division of Insurance

Marguerite Salazar
Commissioner of Insurance

Memorandum

To: Interested Stakeholders

From: Marguerite Salazar, Commissioner, Division of Insurance

Date: 7/1/2015

Re: Recommendation for Colorado's Essential Health Benchmark Plan for 2017 Plans

Background

Since 2014, individual and small group health plans have been required to offer a standardized benefit package based upon a benchmark plan. The benchmark plan selected in 2012 is the basis for plans issued in 2014 through 2016. For 2017, Colorado has the responsibility and opportunity to select a new benchmark plan to serve as the model for plans to be sold in 2017 and beyond.

The Colorado Division of Insurance held a public stakeholder meeting on June 1, 2015, to discuss the benchmark selection process and solicit public input and feedback. Prior to the meeting the Division posted the policy documents and a side-by-side summary chart of the nine plans eligible for selection as the state's benchmark plan. At the stakeholder meeting and for a two-week period thereafter, stakeholders were asked for their comments and recommendations on the candidate plans.

Recommendation

After reviewing the submitted public comments and holding follow-up discussions on which plan's benefit design best meets the needs of Colorado residents, the Division recommends the Kaiser LG A230 State Employee Plan (HMO) as the state's new benchmark plan for 2017. In addition, as this plan does not contain the required pediatric dental benefits, the Division recommends supplementing this selection with the current Child Health Plan Plus (CHP+) pediatric dental benefit.

While the selected 2012 benchmark plan, the Kaiser Ded/CO HMO 1200D plan, was the largest small group plan, the stakeholders who commented in this year's process identified stronger support for the Kaiser State Employee Plan because it offers benefits in three areas that are not in the current benchmark: obesity services (specifically bariatric surgery coverage), services provided by chiropractors, and some infertility coverage.



Key Decision Points

The Division considered the following key decision points in recommending the Kaiser State Employee Plan (HMO), supplemented with the Child Health Plan Plus (CHP+) pediatric dental benefit, for selection as the 2017 state EHB benchmark plan:

- Ensuring that all state-mandated benefits are included in the selected plan;
- Ensuring that coverage is provided in all required statutory categories;
- Ensuring that coverage for all ten (10) Essential Health Benefits is provided in compliance with federal and state standards and guidance;
- Stakeholder involvement, comments, and recommendations
- Limiting disruptions in the insurance marketplace; and
- Balancing benchmark plan comprehensiveness and affordability.

Division Request for Comments

In seeking public comment on the candidate plans, the Division asked respondents to identify a preferred plan and provide the reasons for their selection. The Division also clarified that Colorado is neither able to design or add new benefits to the selected benchmark plan, nor is it able to put additional restrictions, limits, or conditions on the benefits currently contained in each of the candidate plans. Stakeholders were asked to focus on the benefits included in each plan rather than the cost-sharing arrangements, such as deductible, copayment, or coinsurance amounts. The cost-sharing arrangements will not become part of the benchmark plan; carriers will maintain the flexibility to develop various cost-sharing structures as part of their plan designs, but all plans must cover the benefits contained in the selected benchmark plan.

The Division received approximately 70 comments. Of those comments that expressed a plan preference, the Kaiser State Employee Plan (HMO) received the strongest support while meeting the other necessary considerations. Several commenters did not specify a plan preference, and several requested additional benefits for certain conditions. Other comments received discouraged the selection of certain plans rather than indicating which plans were preferred. Summaries of the comments received and the Division's responses to those comments are listed below.

Response to Comments Received

Comment: Several stakeholders requested that the Division expand coverage for Durable Medical Equipment (DME).

Division Response: The Division is unable to place any restrictions, limits, or conditions on existing benefits, such as DME, however, it should be noted that there is no benefit limit on DME for medically necessary habilitative and rehabilitative equipment.

Comment: Stakeholders requested that the Division ensure that habilitative services are provided in parity with current rehabilitation benefits.

Division Response: Habilitative services must currently be offered at parity with rehabilitative services under Colorado Insurance Regulation 4-2-42, where carriers “must provide, at a minimum, no less than sixty (60) visits for habilitative services, and no less than sixty (60) visits for rehabilitative services per calendar year.” All individual and small group plans offered in Colorado must provide this coverage.

Comment: Several stakeholders asked that the selected benchmark plan provide coverage for the treatment of obesity, including behavioral counseling and bariatric surgery.

Division Response: The recommended Kaiser State Employee Plan (HMO) does provide coverage for bariatric surgery.

Comment: Comments were received that requested that the selection of a state benchmark plan be based upon the richness of its behavioral health benefits.

Division Response: Current Colorado law requires that all health benefit plans “provide coverage for the treatment of biologically based mental illness and mental disorders”, and that such coverage be “no less extensive than the coverage provided for a physical illness” (§ 10-16-104(5.5)(a)(I), C.R.S.). This aligns with the federal Mental Health Parity and Addiction Equity Act (MHPAEA), which requires carriers to cover mental health and substance use disorder benefits in a manner no less favorable than medical/surgical benefits. In Colorado, all carriers must cover statutorily defined biologically based mental illnesses and mental disorders, but can and are encouraged to offer additional mental health benefits. Pursuant to state and federal law, all mental health benefits for these conditions must be covered at the same level as medical/surgical benefits.

Comment: It was requested by several stakeholders that “chiropractic services” be included in the selected benchmark plan, and that such services, which may include practices and treatments that fall within the scope of a Doctor of Chiropractic’s profession, should not be limited to the provision of spinal manipulation.

Division Response: The benchmark plan establishes the *benefits* that must be covered by individual and small group health benefit plans. Benefits are defined in terms of the covered services (i.e., medical procedures or treatments) that must be offered, rather than in relation to the type of provider that delivers them. The recommended Kaiser State Employee Plan (HMO) provides coverage for “chiropractic services” that include evaluation, lab services and x-rays, and treatment of musculoskeletal disorders. To meet this coverage requirement in 2017, carriers will need to ensure that their plan networks include providers that are licensed to provide these benefits. However, the benchmark plan itself does not mandate the inclusion of any specific provider types; it only determines the benefits that must be covered by licensed providers, operating within the scope of their practice.

Comment: Stakeholders also commented that several plans have very limited short-term outpatient visit limits for physical, occupational, speech therapy of twenty (20) visits a year for each therapy, and that basing outpatient benefits for these services upon medical necessity would be best.

Division Response: The recommended Kaiser State Employee Plan (HMO) does provides coverage for twenty (20) physical, occupational, and speech therapy rehabilitation visits, and twenty (20) physical, occupational, and speech therapy habilitation visits, in line with the current state benchmark plan selected for 2014, and current Colorado Insurance Regulation 4-2-42. However, nothing prohibits a carrier from providing additional therapy visits to provide a more attractive plan to consumers, or to provide additional visits as medically necessary. The state benchmark plan identifies the minimum benefits that must be covered by all health plans, but does not limit carriers to only providing the minimum coverage required.

Comment: Many specialty providers supplied comments expressing a preference for the plan that would provide the most benefit to their patients. For example, Doctors of Optometry preferred the Government Employee Health Association (GEHA) Standard Plan, as it provides very robust pediatric and adult vision benefits, and some groups and individuals advocated for coverage for bariatric surgery and other services to address obesity.

Division Response: It is understandable that specialty providers would want a benchmark selected that would provide the greatest array of covered benefits for their patients, but the selection of a benchmark plan cannot be made solely based upon the benefits a plan provides for a single specialty or medical condition. The entire package of benefits must be evaluated as a whole and must take the coverage provided for all essential health benefits into account. The GEHA plan does provide robust vision coverage but it does not comply with current state coverage mandates for other benefits. Selecting the federal GEHA plan would require extensive modification and supplementation before it would comply with Colorado mandated coverage requirements which was an important consideration in this process. For services to address obesity, the Kaiser State Employee Plan provides coverage for bariatric surgery and related services.

Comment: Several stakeholders expressed concern that the selection of an HMO plan as the state benchmark would result in less robust prescription drug benefit, as HMO plans have fewer drugs listed in their formularies.

Division Response: Most HMO models do contain fewer drugs within their prescription drug formularies, but as the benchmark plan serves as a coverage “floor”, carriers can and are encouraged to develop and sell plans that contain supplemented and expanded drugs formularies. Patients can also obtain coverage for prescription drugs that are not on a carrier’s formulary if that drug is found to be medically necessary and prior approval is obtained.

Comment: A preference was expressed by stakeholders to supplement current pediatric dental benefits with the current CHP+ plan, and that pediatric dental benefits should be required to be embedded in all health benefit plans to ensure such required coverage is carried by policyholders.

Division Response: The initial EHB benchmark plan that Colorado selected in 2012, which defined benefits for plan years 2014-2016, did not contain pediatric oral services. At that time, Colorado selected the CHP+ dental plan to supplement the benchmark, which defined the pediatric dental services that carriers were required to cover. The Division agrees that selecting the CHP+ dental plan to supplement the Kaiser State Employee Plan (HMO) will provide continuity for both carriers and consumers, and help maintain stability in the marketplace.

The Division disagrees that carriers should be required to embed pediatric dental benefits within all medical plans, as experience over the last two years has shown this is not the most effective way to ensure consumers have access to such benefits. Specifically, in instances where a medical

plan has a deductible that must be met before non-preventive services are covered, unless consumers also incurred medical expenses to help meet the plan's deductible, no pediatric non-preventive dental claims would be payable. As a result, consumers may be paying for pediatric dental benefits, but will not receive any pediatric dental benefits at reduced cost unless they first meet their full medical deductible.

Comment: Comments were received requesting that a benchmark plan be selected that contains a pediatric benefit that allows children to receive pediatric care until the age of twenty-one (21).

Division Response: Pediatric services, defined as one of the ten Essential Health Benefit categories under the Affordable Care Act (ACA), include pediatric oral services and pediatric vision services. Subsequent federal regulations established that coverage of pediatric oral and vision services must be provided through age 19. Colorado Insurance Regulation 4-2-39 requires stand-alone pediatric dental plans to provide coverage through age 19. Colorado Insurance Regulation 4-2-42 requires carriers to cover routine pediatric eye exams through age 19. Although carriers may extend coverage of pediatric oral and vision benefits beyond 19 years of age, requiring coverage through age 21 would necessitate a change to current Colorado law, and is beyond the scope of the benchmark selection process.

Comment: Comments were received asking the state to select a plan that provides adequate coverage for diabetes care and treatment, but noted that all candidate plans comply with the requirements of the state diabetes care mandate.

Division Response: All non-federal candidate plans comply with the state diabetes care mandate found at § 10-16-104(13), C.R.S., including the recommended Kaiser State Employee Plan (HMO).

Conclusion

The Division has concluded that the Kaiser State Employee Plan (HMO), and the Child Health Plan Plus (CHP+) pediatric dental benefit, will establish a new EHB benchmark standard that meets the wants and needs of Colorado consumers. The Kaiser State Employee Plan (HMO) contains a robust collection of benefits, and has among the highest enrollment of all of Kaiser's product offerings in Colorado. In selecting a plan for its employees, the State had to balance the richness of the benefit package with the cost of the plan to both employees and taxpayers, a balance the Division recommends making available to all Coloradans.