

December 22, 2014

Marilyn Tavenner
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-9944-P
P.O. Box 8016
Baltimore, MD 21244-1850

RE: (CMS-9944-P) Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016

Dear Administrator Tavenner:

The American Occupational Therapy Association (AOTA) is the national professional association representing the interests of more than 185,000 occupational therapists, students of occupational therapy, and therapy assistants. The practice of occupational therapy is science-driven, evidence-based, and enables people of all ages to live life to its fullest by promoting health and minimizing the functional effects of illness, injury, and disability. AOTA appreciates the opportunity to comment on the proposed rule *Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016*. AOTA supports the comments submitted by the Habilitation Benefits (HAB) Coalition on the proposed rule and offers additional comments below.

Uniform Definition of Habilitative Services (§ 156.115)

HHS is proposing to establish a uniform definition of habilitative services through new regulations at Sec. 156.115. The proposed rule states that HHS believes that “adopting a uniform definition of habilitative services would minimize the variability in benefits and lack of coverage for habilitative services versus rehabilitative services” and “defining habilitation services clarifies the difference between habilitative and rehabilitation services.” AOTA agrees and supports the HHS proposal to establish a uniform definition.

HHS is seeking comments on three options for the definition of habilitative services: (1) maintain the current policy; (2) define habilitative services based on a definition from the Glossary of Health Coverage and Medical Terms; or (3) permit the use of one or more specified definitions.

AOTA supports the proposed definition for habilitation based on the definition developed by the National Association of Insurance Commissioners but encourages HHS to include “devices” in the definition along with the specific services as referenced in the full NAIC definition.

AOTA suggests the following amendment to Sec. 156.115:

Underlined text = AOTA proposed amendment to HHS proposed regulatory language.

§ 156.115 Provision of EHB.

(a) * * *

(5) If the EHB-benchmark plan does not include coverage for habilitative services as described in § 156.110(f), the plan must:

(i) Cover health care services **and devices** that help a person keep, learn, or improve skills and functioning for daily living. **At a minimum, these health care services must include physical and occupational therapy, speech-language pathology and other services.**

(ii) Provide coverage of habilitative services in a manner no less favorable than coverage of rehabilitative services.

(6) For pediatric services that are required under § 156.110(a)(10), provide coverage for enrollees until at least the end of the plan year in which the enrollee turns 19 years of age.

AOTA Analysis of Rehabilitation and Habilitation Benefits in Qualified Health Plans

AOTA recently analyzed 266 health plans offered in state- and federal-based exchanges in 2014 to determine whether occupational therapy and other rehabilitative and habilitative services were covered in accordance with the Affordable Care Act's requirements. The study was done through a comprehensive review of Summaries of Benefits and Coverage (SBCs) from health plans offered in all 50 states and the District of Columbia.

The AOTA Report, along with links to SBCs from 266 health plans offered in 2014, is available online at:

<http://www.aota.org/-/media/Corporate/Files/Advocacy/Health-Care-Reform/Essential-Benefits/EHB-research-project.pdf>

Based on our analysis, AOTA found that insurance carriers, in some cases, seem to not comply with the EHB benchmark standards for coverage of rehabilitative and habilitative services and that consumers in many cases do not have access to adequate information about coverage for rehabilitation and habilitation benefits to make informed choices.

AOTA urges HHS to take a closer look at how these services are being covered and the information available to consumers as they make decisions about which plan to purchase on the exchange.

The recent proposed rule from the Office of Personnel Management, *Patient Protection and Affordable Care Act; Establishment of the Multi-State Plan Program for the Affordable Insurance Exchanges* (RIN 3206-AN12) included a discussion about how coverage for a particular benefit should be disclosed.

The summary of the proposed rule included the following statement:

Note that the question of how this coverage should be disclosed is not unique to MSP options; the Departments of Health and Human Services, Labor, and Treasury intend to issue guidance on the Summary of Benefits and Coverage in the future.¹

AOTA urges HHS, along with the Departments of Labor and Treasury to issue additional broader guidance on the Summary of Benefits and Coverage to address concerns with coverage for habilitation, rehabilitation and devices.

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AOTA respectfully requests that careful consideration be given to these comments. Should you have any questions or require additional information, please contact us at (240) 482-4133 or by e-mail at cwillmarth@aota.org.

Sincerely,



Chuck Willmarth
Director, State Affairs and Health Policy

¹ 79 FR 69808