

September 17, 2010

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

The Honorable Hilda Solis  
Secretary  
U.S. Department of Labor  
200 Constitution Ave, NW  
Washington, DC 20210

The Honorable Timothy Geithner  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Ave, NW  
Washington, DC 20220

Dear Secretaries Sebelius, Solis, and Geithner:

As organizations advocating for the health, safety, and well-being of children and families, we appreciate this opportunity to comment on the Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services under the Patient Protection and Affordable Care Act (ACA), as published in the *Federal Register* on July 19, 2010.

Under Section 2713 of the ACA, health insurers are required to provide, with no cost-sharing, access to a range of preventive health services. Expanding access to preventive health care services such as well child visits, immunizations, and tobacco cessation has the potential to greatly improve the health of our nation's children and families. In order to realize these benefits, however, Section 2713 must be implemented thoughtfully and thoroughly, with steps taken to avert possible consequences that might reduce rather than increase access to preventive care.

The undersigned organizations urge you to ensure that the Final Rules for Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services under the Patient Protection and Affordable Care Act address the following issues.

***Section 2713 should apply to Medicaid and Medicaid managed care programs.*** Over 30 million children are currently covered by Medicaid programs across our nation. While the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) mandate requires coverage of all preventive care services, access to preventive coverage varies widely across programs. Although Medicaid managed care is federally-financed, medical care is organized, delivered, and coordinated by private plans. Therefore we ask that the Final Rule clarify that Section 2713

apply to all Medicaid and Medicaid managed care contracts. Not only will this ensure that plans provide these critical services to children, but it will increase uniformity among the plans (not currently required under EPSDT), and ultimately, accountability. This policy is consistent with the ACA's intent to streamline administration and services and with current Child Health Insurance Program law, which disallows cost sharing for *Bright Futures* services (42CFR457.520(b)).

***Health care providers should not be required to absorb costs associated with Section 2713.***

The goals of Section 2713 could be fundamentally undermined if health care providers lose all revenue associated with copayments, or if preventive care services are inappropriately bundled with other payments. The intent of Section 2713 is to increase access to preventive care. If, however, health care providers are penalized by losing copays to deliver these services, then Section 2713 could actually result in children receiving less, rather than more, preventive medical care.

***Grandfathered plans should provide full access to preventive care.*** We remain concerned that Section 2713 does not apply to grandfathered plans. This provision will delay access to inexpensive preventive care for millions of children. Moreover, families expecting to obtain coverage for preventive care may be uncertain whether their insurance is "grandfathered", and thus forced to wait an unknown period of time before receiving access to these services without cost-sharing. While a statutory requirement of the ACA, the Secretary of Health and Human Services is afforded great flexibility in defining essential health benefits and setting quality standards in health plans. Concerns about preventive services coverage by grandfathered plans could be mitigated if strict limitations are put in place on the types of changes in coverage that can be made without losing grandfather status.

In closing, we are concerned about the ability of children and families to access the critical services provided under this new rule. Without concerted education and outreach to families and providers, it is not evident that they will understand what preventive benefits will now be available through health plans. We encourage you to work with states and Insurance Commissioners to develop educational strategies to promote the preventive benefits, especially as they relate to children's services. Additionally, we ask that federal authorities take a strong role in monitoring and enforcing Section 2713, particularly by working with states to ensure plan compliance.

We appreciate your commitment to the health and well-being of our nation's children and families, and particularly to preventive health care services. If our organizations may provide further information or assistance, please contact Cindy Pellegrini or Bob Hall at the American Academy of Pediatrics at 202/347-8600.

Sincerely,

Academic Pediatric Association  
American Academy of Child and Adolescent Psychiatry  
American Academy of Family Physicians  
American Academy of Pediatrics

American Pediatric Society  
Association of Medical School Pediatric Department Chairs  
Bazelon Center for Mental Health Law  
Child Welfare League of America  
Children's Health Fund  
Doctors for America  
Family Voices  
Georgetown University Center for Children and Families  
National Alliance to Advance Adolescent Health  
National Athletic Trainers' Association  
National Association of Children's Hospitals  
National Health Law Program  
New England Alliance for Children's Health  
Society for Pediatric Research  
Trust for America's Health