

# Congress of the United States

Washington, DC 20515

March 29, 2024

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Secretary Becerra and Administrator Brooks-LaSure:

We are writing to thank the Department of Health and Human Services (HHS) and the Centers for Medicare and Medicaid Services (CMS) for their ongoing efforts to make health coverage more comprehensive, affordable, and accessible for all people. The recently proposed Notice of Benefit and Payment Parameters (NBPP) for 2025 takes an important step forward in addressing coverage gaps in Essential Health Benefits (EHB). We applaud the elimination of the exclusion of routine adult dental services in EHB plans and the greater flexibility this rule would grant states in crafting their own EHB coverage standards.

**However, even with these improvements, stronger federal standards are needed and imperative to achieve the purpose of the essential health benefits-- ensuring that health insurance works for people, regardless of where they live. Therefore, we strongly urge the Department to initiate rulemaking to update and revise the EHBs.**

When Congress established the EHBs fourteen years ago, it established a minimum set of standards in the form of ten categories of services that must be covered. But Congress also directed the Secretary of HHS to define EHB coverage and further, regularly review and update the EHBs.<sup>1</sup> However, HHS ultimately delegated many decisions about specific covered services to the states and insurance carriers. While the intent may have been to provide flexibility in addressing regional health needs, the lack of detailed federal guidelines and regular review of EHBs has resulted in patchwork coverage across states.

As evident in the comments in response to the December 2022 CMS Request for Information on Essential Health Benefits, coverage varies greatly by state, with many states allowing for inadequate coverage across EHB categories. For example, the current EHB framework does not clearly define pediatric services beyond preventive services and oral and vision care. This has resulted in notable exclusions for children, particularly those with special needs and disabilities.<sup>2</sup> Similarly, while the EHBs require coverage of mental health and Substance Abuse Disorder (SUD) services, the standards are so broad that access to life-saving SUD treatment medications varies widely<sup>3</sup> based on where a patient lives and what plan they choose. Likewise, lack of clarity around EHB coverage for maternal care<sup>4</sup> has resulted in limits on prenatal and delivery services coverage, inconsistent coverage of breastfeeding and lactation services, lack of access to evidence-based home-based postpartum care, and restrictions on doulas and midwives. This Swiss cheese approach also contributes to

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<sup>1</sup> 42 U.S. Code § 18022(b)(1); 42 U.S. Code § 18022(b)(4)

<sup>2</sup> Grace, Aimee M et al. "The ACA's Pediatric Essential Health Benefit Has Resulted In A State-By-State Patchwork of Coverage With Exclusions." *Health Affairs* vol. 33,12 (2014): 2136-43. doi:10.1377/hlthaff.2014.0743

<sup>3</sup> Willison, Charley E et al. "Double-edged sword of federalism: variation in essential health benefits for mental health and substance use disorder coverage in states." *Health Economics, Policy, and Law* vol. 16,2 (2021): 170-182. doi:10.1017/S1744133119000306

<sup>4</sup> Ellmann, Nora, and Jamille Fields Allsbrook. "States' Essential Health Benefits Coverage Could Advance Maternal Health Equity." Center for American Progress, 2021, [www.americanprogress.org/article/states-essential-health-benefits-coverage-advance-maternal-health-equity/](https://www.americanprogress.org/article/states-essential-health-benefits-coverage-advance-maternal-health-equity/).

the medical debt crisis our country is currently facing, where millions with health insurance have medical bills for services not covered by their insurance and they simply cannot afford to pay them.

Other areas of health care, such as adult dental care, are wholly excluded from EHBs, even though oral health is essential to every person's overall health and economic well-being. Access to dental care improves health outcomes for costly chronic conditions, reduces the risk of adverse birth outcomes, and improves people's job prospects. Despite this, dental care presents the highest financial barriers compared to nearly any other category of health care, with nearly 50% of adults with health care debt saying dental bills contributed to it. We strongly encourage HHS to incorporate adult dental services into the EHBs.

Fortunately, HHS has the authority to address these oversights and provide relief to millions of individuals. Section 1302(b)(4)(G) of the Affordable Care Act specifically directs the Secretary of HHS to periodically review and update the EHB, considering barriers people are facing in accessing the services they need, changes in medical or scientific advancement, and gaps in EHB coverage.

Given the Secretary's clear regulatory authority, and the persistent gaps in coverage identified above, HHS should take immediate action to:

- Institute a minimum standard of coverage that applies to every EHB category, with sufficient detail to ensure a nationwide floor for coverage by most health plans;
- Expand the scope of services within the current EHB categories, where appropriate, through the review process; and
- Establish a permanent structure for regularly reviewing and updating EHBs that is transparent, equitable, and prioritizes meaningful opportunities for stakeholder engagement.

Too many individuals forego medically necessary care because they cannot afford treatment, or risk going into medical and dental debt. HHS has the power to mitigate this burden through updating the EHBs. We urge you to initiate a new rule and help ensure that over 40 million people will have comprehensive health insurance coverage for the services they need.

Sincerely,

  
Nanette Diaz Barragán  
Member of Congress

  
Angie Craig  
Member of Congress

  
Katie Porter  
Member of Congress

  
Summer Lee  
Member of Congress



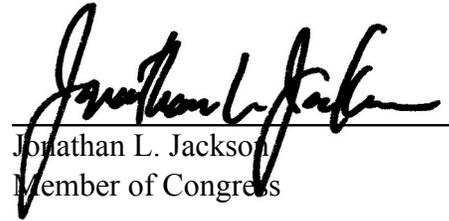
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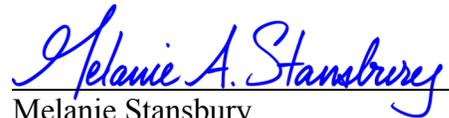
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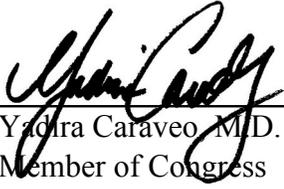
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