

Essential Health Benefits: A Federal Strategy Guide for Advocates

Introduction: What are Essential Health Benefits?

The Affordable Care Act (ACA) makes a number of changes to private health insurance plans. One important protection is the establishment of a package of essential health benefits (EHB).

Prior to the ACA, federal law did not establish a minimum level of benefits that must be available in all health plans. The EHB will set a floor on what many health plans must cover. The EHB provision in the ACA lists only broad categories that must be covered and leaves to the Secretary of Health and Human Services (HHS) the task of defining in greater detail what the EHB must cover within those categories. To learn more about the process of developing the EHB, please see Community Catalyst's [The Essential Health Benefits Process: What Advocates Need to Know Now](#).

States will have an opportunity to mandate additional benefits not included in the EHB as outlined by the Secretary; however, states will be required to pay for any increased premium costs stemming from the additional state mandates, even for unsubsidized plans. Given current state budget challenges, most states are unlikely to deviate from the federal determination of the EHB to add other mandated benefits. Therefore, the pivotal moment for consumer advocacy in favor of a robust benefits package in the EHB is at the federal – not the state – level.

This purpose of this document is to outline the strategic considerations for advocates when planning their federal activities around the EHB.

A Balancing Act

Creating the EHB is a challenging task. The Secretary must achieve a balance between comprehensiveness and cost. A more comprehensive definition for the EHB will increase the federal government's cost for subsidies for those who qualify and for individuals who must pay for coverage out-of-pocket. However, an EHB that is less comprehensive runs the risk of leaving consumers underinsured even if it proves less costly in the short term.

Many advocates have been working hard already to ensure that benefits of great importance to their constituencies are included in the EHB and, at first glance, it may appear that many organizations that have partnered in the past could be in competition around the EHB. While this dynamic is to some extent a genuine concern, there still remains room for agreement.

We recommend that advocates work with each other as much as possible to develop a consensus agenda for federal advocacy on this issue. Elements of this agenda may include process transparency, consumer input, consumer protections, and overall benefit comprehensiveness. The agenda may also

include language that acknowledges differences among various advocacy groups regarding the details of the EHB, however, it also can and should emphasize that all members support a set of guiding principles for the EHB that go beyond these details.

Principles for EHB Advocacy

We suggest the following principles to unite consumer groups in their advocacy for a robust EHB for all consumers:

- **The EHB development process must be transparent and consumer driven.** While advocates may differ on the scope, duration, and amount of services included in the EHB, they can agree on the importance of a transparent development process that legitimizes consumer input. All advocates can agree the EHB development process must be transparent and involve consumers not just over the next few months but also in the coming years as revisions need to be made to the package based on consumer experience. According to the ACA, the Secretary will revisit the EHB annually and has discretion in determining whether or not it should be revised. Advocates should ask the Secretary to clearly outline this process so that consumer input plays a role every time the EHB is revisited.
- **Congress intended the EHB to be robust.** When Congress included the EHB in the ACA, they intended for all Americans to have access to a robust benefits package, giving them health care security. Underinsuring consumers is both unjust and shortsighted – it places consumers at risk of medical debt, reduces the likelihood of preventive medical care, and increases the chance of a missed or late diagnosis. These effects can be devastating for families and costly to the health care system as a whole.
- **Insurers cannot be left to determine all the details.** Ultimately, the Secretary has the responsibility of ensuring that the EHB meets the needs of consumers. Advocates can unite around the principle that insurers should not be given wide discretion in how the EHB is implemented. To the extent that discretion is granted, advocates should demand transparency from insurers to define publicly what services are included and excluded. Additionally, insurers need to outline how coverage decisions are made and by whom. Advocates will play an important role in their states to monitor how insurers implement the EHB and to raise consumer awareness about the ACA's [new appeal rights](#) that can be used to challenge benefit denials.

Next Steps

In early October 2011 the Institute of Medicine (IOM) is expected to release comments on the criteria for determining the EHB. The Secretary will use IOM recommendations as a guide to determine the EHB. Over the course of the fall, it is expected that Secretary will hold public forums and ask for consumer input in defining the EHB. A proposed regulation outlining the EHB will likely follow these forums. **Consumer advocates can voice support for a transparent development process, a robust set of benefits, and limited insurer discretion during both the forums and in response to the proposed regulation.** Furthermore, monitoring the entire process around the EHB will be a key role for consumer advocates in the coming months and years.