



## Essential Health Benefits: Transparency is Top Priority

### Background

The Affordable Care Act (ACA) establishes, for the first time, a package of essential health benefits (EHB) for nearly all health plans. The EHB provision requires balanced coverage across [10 categories](#) of care. It applies to all new policies sold in the individual and small group markets beginning in 2014 and to Medicaid benchmark or benchmark equivalent coverage (i.e., coverage that is less generous than traditional Medicaid and that will be available to many newly eligible individuals in 2014). The EHB also has the potential to set a new unofficial standard for large group and self-insured plans.

Instead of creating one national standard or a national minimum benefit package, Health and Human Services (HHS), in its [December 2011 Bulletin](#), allows each state, within certain parameters, to adopt their own definition of [EHB](#). States must peg their EHB to one of four existing health plan options (small group plans, state employee plans, federal employee plans, or largest non-Medicaid HMO). If the chosen benchmark lacks coverage in one of the 10 categories of care, it must be supplemented using other potential benchmark plans in order to meet ACA requirements. **If a state does not select an EHB by September 30 2012, HHS will select a default plan for them.** The federal default plan is the largest small group plan in a state by enrollment. Each state's benchmark choice must be certified by the Secretary of HHS.

Stakeholders are currently engaged in conversations about what 'what benefits are essential;' however, rather than focus on specific benefits, consumer advocates should direct their energy toward establishing an ongoing transparent process with stakeholders. The benchmark decision is only one decision regarding EHB and has largely been pre-determined by existing guidance. Over the next two years, the EHB will need to be monitored and tweaked. Therefore, the main priority for advocates should be advocating for transparency mechanisms that shine light on consumer experiences, access to care, and limitations of coverage that will help shape future decisions about EHB. The current EHB structure is in place until 2015 when HHS will revisit and potentially redesign the approach.

### Why is transparency a priority?

Unfortunately, a state's pathway to EHB plan selection is not a smooth one. States must navigate a series of complex decisions that impact consumer health. A state must choose a benchmark plan, ensure that all benefit categories outlined in the ACA are represented and balanced, obtain Secretary of HHS's approval for the benchmark and then facilitate state level implementation of the EHB inside and outside the Exchange. From compiling insurance plan data in order to identify potential benchmark plans to supplementing missing benefits through other benchmark options, states face numerous challenging decisions. Each of these decisions affect consumers. While HHS will reconsider the EHB process in 2015, states will continue to play an ongoing role in how EHB rolls out in their state.

Because of state flexibility to determine the EHB package combined with the complexity of decision making, there is an elevated need for consumer input. Each time there is a decision about EHB it is an opportunity for consumer engagement and feedback.

One challenge to defining the EHB is its potential for competition in advocacy. Balancing affordability and robustness of coverage can pit advocates against one another in an effort to protect their constituencies. It is important for advocates to recognize that there will be disagreement in their benefit priorities; however, there is also room for [consensus](#).

*Transparency is one way to support all consumers through the state's selection of a benchmark and beyond.* Transparency creates opportunity for informed consumer input, setting the stage for a dialogue where all stakeholders are working from the same facts. Finally, transparency empowers consumers and provides states with consumer feedback that can inform EHB development and refinement.

### **What are specific tools to create transparency?**

Consumers should have a voice in the selection of the EHB and continue provide feedback as the process unfolds in their state. Examples of transparency tools include open meetings, publicly accessible notes, and public comment options. Open meetings and public comment periods, in particular, allow for consumer input and engagement with state officials and other stakeholders.

Oregon has robust EHB processes. Oregon is using a stakeholder workgroup to identify, analyze and recommend an EHB benchmark. The workgroup requested consumer input about their EHB recommendation and presented and responded to those comments in a separate public meeting. All workgroup materials are available online ranging from decision making tools to benefit analyses. Following the first comment period, Oregon began an open process to determine how to supplement missing benefit categories and has asked for public comment. The workgroup will respond to the public prior to making a final recommendation to the [governor](#).

Other tools for transparency include publicly available data on enrollment, quality measures, and patient outcomes. Increasingly, insurers are using quality related data to assist consumers in plan decision-making. Specifically, making this data web-available directly connected to other health plan information and government programs is important.

### **What are other ways to operationalize transparency?**

#### **1. Advocate for a state reporting process that captures consumer experience**

In the ACA, the Secretary is required to certify EHBs and is given a checklist that includes:

- benefits reflect an appropriate balance so that none are unduly weighted toward any one category
- the package does not discriminate against individuals because of age, disability, or expected length of life
- diverse health care needs of the population are considered
- individuals cannot be denied health care on the basis of age, predicted disability or length of life

The Secretary must also report to Congress annually on consumer access; whether benefits need to

be modified or updated to account for advances in medicine; information on how the EHB should be modified to address gaps in access; and potential additions or reductions in benefits to meet actuarial limitations. *Advocates can ask that their state process mirror the federal level.*

As EHB unfolds, there is a prominent regulatory and oversight role for insurance commissioners. *Advocates should begin to develop or continue to strengthen their relationship with their [insurance commissioner](#), outline for him/her the importance of ongoing consumer input and make suggestions on transparency measures in the EHB process.*

## **2. Ask the state to go beyond federal guidance to protect consumers**

Advocates can also establish further protections than the federal guidance to work toward transparency. For example, one concern for consumers is the possibility of substitution within a benefit category. In the [December Bulletin](#) and subsequent [February FAQ](#), HHS states that they intend to allow substitution within a benefit category. In simple terms, this means that some physical therapy visits could be traded for more occupational therapy visits as long as the swap did not alter the value of the benefit. This flexibility could allow for tremendous variation in EHB plans and in some cases, adverse selection. Too much variation is confusing for consumers and raises concerns about transparency in consumer plan choice.

As Massachusetts conforms to the ACA, [advocates are concerned](#) about too much EHB plan variation both in and out of the Exchange. Through consumer focus group research, the Massachusetts Connector (the Exchange) determined that unlimited plan options confuse consumers. The Connector determined that consumers want choice – but not too much [choice](#). The Connector responded by standardizing their Exchange insurance products, limiting variation. The consumer response was positive – [84 percent](#) of consumers are satisfied or very satisfied with their experience.

In comments to their Insurance Commissioner, Massachusetts consumer advocates requested that the state ban all EHB substitution within benefit categories. *Barring any decision by HHS that requires states to allow insurers to substitute within categories, advocates can urge their states to prohibit this practice. Currently, nothing in HHS guidance prevents the state from establishing this consumer-friendly policy.*

## **3. Repeat the message of consumer feedback**

The best messages deserve repeating. Consumers need a platform to respond and give feedback regarding EHB selection in their state. Transparency comes in many forms, but it encompasses public decision-making, access to information, representation, and a mechanism for timely response. And EHB will continue to evolve as the ACA is implemented, so transparency tools will be used repeatedly. Together, these tools create a transparent environment where consumers are partners in their own care.

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