



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

June 24, 2013

The Honorable Lou Barletta
U.S. House of Representatives
Washington, DC 20515

Dear Representative Barletta:

Thank you for your letter regarding the Department of Health and Human Services' (HHS) final rule, *Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation* (EHB final rule), published on February 25, 2013. Specifically, your letter discusses comments that HHS received from a coalition of obesity treatment advocates.

As discussed in the preamble of the EHB final rule, HHS received approximately 5,800 public comments on the proposed rule. Numerous commenters urged HHS to define in more detail the 10 essential health benefit (EHB) categories—including preventive and wellness services, chronic disease management, and individual services or benefits within those categories. As indicated in the preamble to the proposed rule, HHS addresses comments it receives through the rulemaking process rather than through individual letters to commenters. Accordingly, HHS responded to the comments from the obesity treatment advocates in aggregate in the EHB final rule. In addition, several members of my staff subsequently met with these advocates on April 15 to discuss EHB and other issues.

The Affordable Care Act directs the Secretary to define EHB to include at least the 10 identified categories, while ensuring that the scope of EHB is equal to the scope of benefits provided under a typical employer plan. Typical employer plans differ by state. Thus, in order to balance statutory directives and minimize market disruption, the EHB final rule generally allows each state to define its own benchmark for specific services and items included in EHB coverage by reference to one of a range of plans, including plans offered in the state or certain Federal Employee Health Benefits Plans. While the EHB benchmark plan approach in the EHB final rule does not specify individual services that benchmark plans must cover in each category, it does provide states and health insurance issuers with flexibility and fulfills the statutory requirement that the benchmarks be equal in scope to a typical employer health plan.

Neither the Affordable Care Act nor its implementing regulations prohibit a plan from providing benefits in excess of the EHB. In states where the EHB benchmark plan does not include coverage of certain services, plans may still choose to offer such services. Furthermore, in states that mandate such coverage, the EHB final rule clarifies that state-required benefits enacted prior to December 31, 2011, are not considered to be in excess of EHB.

I also want to assure you that I share your concern about the growing obesity epidemic, and would note that many HHS programs and initiatives are designed to prevent and better treat

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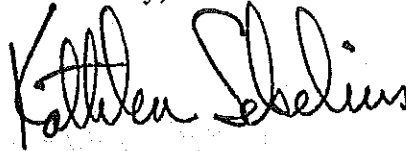
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obesity. I welcome your thoughts on additional ways to address this chronic public health problem.

Again, thank you for your interest in this important issue. I look forward to working with you as we continue to implement the Affordable Care Act. Please do not hesitate to contact me if you have any further thoughts or concerns. I will also provide this response to Representative Allyson Schwartz.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Sebelius". The signature is written in a cursive style with a large initial "K".

Kathleen Sebelius