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Office of Consumer Information and Insurance Oversight
Department of Health and Human Services,
Attention: OCCIO-9992-IFC,
P.O. Box 8016,
Baltimore, MD 21244-1850

Dear OCCIO:

The Obesity Action Coalition (OAC), a national nonprofit organization dedicated to helping those affected by obesity, respectfully submits the following written comments to the Department of Health and Human Services' Office of Consumer Information and Insurance Oversight regarding 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, which were released on July 14, 2010.

On behalf of our more than 16,000 members throughout the United States who are personally affected by all forms of obesity, the OAC is pleased that the Interim Final Rule includes provisions expanding access to obesity screening and treatment services for those who struggle with their weight.

First and foremost, the OAC believes that the goals laid out for those who have chosen to address their obesity should focus less on total weight-loss and more on health improvement. We believe such an approach encourages more consistent and continued individual participation in programs to address obesity – highlighting realistic outcomes and expectations for those affected by obesity.

We know that treating or addressing obesity among those already obese is difficult. This is clearly demonstrated by the more than 34 percent of Americans who are currently affected by obesity. However challenging though, efforts must be made to both prevent and treat obesity at all stages and in all age groups. Treatment approaches should include the following: school and community-based programs; lifestyle interventions; educational programs; medication, diet and physician-supervised programs; and surgery.

Therefore, the OAC applauds the inclusion of the following U.S. Preventive Services Task Force's (USPSTF) recommendations regarding obesity:

- The USPSTF recommends that clinicians screen all adult patients for obesity and offer intensive counseling and behavioral interventions to promote sustained weight loss for obese adults.
- The USPSTF recommends that clinicians screen children aged six years and older for obesity and offer them or refer them to comprehensive, intensive behavioral interventions to promote improvement in weight status.
- The USPSTF recommends intensive behavioral dietary counseling for adult patients with hyperlipidemia and other known risk factors for cardiovascular and diet-related chronic disease. Intensive counseling can be delivered by primary care clinicians or by referral to other specialists, such as nutritionists or dietitians.

In further defining what the Task Force means by "intensive counseling and behavioral interventions," we are pleased to note the attached Managing Obesity: A Clinician's Aid – a publication developed by the Agency for Healthcare Research and Quality (AHRQ), which is the parent agency for the USPSTF. The Clinician's Aid series highlights research from AHRQ's evidence-based practice program, which "informs many science-based recommendations in the public and private sectors, including the USPSTF."

Within the AHRQ document, the agency includes a section entitled “Counsel Intensively, or Refer” that suggests the following interventions:

The most effective interventions to help patients change their eating patterns and become physically active combine:

- **Nutrition education;**
- **Diet and exercise counseling;**
- **Behavioral strategies; and**
- **High-frequency interventions—i.e., more than 1 person-to-person (individual or group) session per month for at least 3 months—can lead to a 3-6 kg weight loss maintained for more than 2 years.**
- **Maintenance interventions help people sustain weight loss over time.**

The OAC believes that a rigorous implementation of the above criteria is an excellent first step toward addressing obesity treatment at one end of the care continuum. However, the OAC is extremely troubled by the language in the Interim final regulation that states:

“These interim final regulations provide that if a recommendation or guideline for a recommended preventive service does not specify the frequency, method, treatment, or setting for the provision of that service, the plan or issuer can use reasonable medical management techniques to determine any coverage limitations. The use of reasonable medical management techniques allows plans and issuers to adapt these recommendations and guidelines to coverage of specific items and services where cost sharing must be waived.

Thus, under these interim final regulations, a plan or issuer may rely on established techniques and the relevant evidence base to determine the frequency, method, treatment, or setting for which a recommended preventive service will be available without cost-sharing requirements to the extent not specified in a recommendation or guideline.”

For far too long, treatment avenues to address obesity have come under a different microscope than treatment modalities for other disease states. The OAC believes that new evidence-based treatment approaches for obesity should be subject to, and judged by, the same approval criteria as new treatments for cancer, heart disease or diabetes.

Furthermore, patients must have access to this comprehensive treatment approach through reasonable means and this access to care should not be hindered by undue tests or prerequisites on the part of the patient. Therefore, we are hopeful that the final regulations will include language outlining the need for “high frequency interventions” when treating obesity through nutrition education, diet and exercise counseling, and behavioral strategies.

In closing, we would like to reiterate that no one prevention or treatment approach will solve the obesity epidemic as a wide variety of actions will be necessary to address the complex and chronic condition of obesity. However, we believe coverage of, and elimination of patent cost sharing for obesity screening followed by intensive counseling and behavioral interventions to promote sustained weight-loss is a good beginning toward providing mandatory coverage for the continuum of care for those affected by overweight and obesity.

Sincerely,



Joseph Nadglowski, Jr.
President/CEO