



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

July 2, 2013

Thomas R. Insel, M.D.  
Chair, Interagency Autism Coordinating Committee  
Director, National Institute of Mental Health  
National Institutes of Health  
Building 15K, Room 107  
North Drive  
Bethesda, Maryland 20892

Dear Dr. Insel:

I am writing to extend my appreciation to you and the Interagency Autism Coordinating Committee (IACC) for your recommendations regarding coverage of behavioral health treatment as a component of the essential health benefits (EHB) requirement of the Affordable Care Act.

Section 1302(b)(1) of the Affordable Care Act requires that EHB include at least 10 general categories of items and services that are equal in scope to a typical employer health plan. One of those required categories is mental health and substance use disorder services, including behavioral health treatment. On February 25, 2013, the Department of Health and Human Services (HHS) published its final rule (Final EHB Rule) on *Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation*, which requires that mental health and substance use disorder services, including behavioral health treatment services, be provided in a manner that complies with the parity requirements under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

The Final EHB Rule clarified that state-required benefits enacted prior to December 31, 2011, are considered to be EHB. The Final EHB Rule also clarified that those state-required benefits will continue to apply to qualified health plan markets in the same way they apply to the current market.

The Final EHB Rule does not mandate which specific services must be covered by a state's benchmark plan. Thus, plans in states where coverage of a certain treatment (such as certain behavioral health treatments for autism) is not required may choose to include these services; neither the Affordable Care Act nor its implementing regulations prohibit plans from offering services in addition to the EHB benchmark plan.

As for Medicaid programs, many states currently offer coverage for services to address autism spectrum disorder (ASD) through waivers, primarily through Home and Community Based Services (HCBS) waivers. For these waivers, states develop and operate HCBS programs based on state needs, priorities, and legislative direction. All states and the District of Columbia have HCBS or 1115 demonstration waivers for individuals with intellectual or developmental

disabilities, and many states serve people with ASD under their primary HCBS waiver. More than 30 states have explicitly listed autism as a related condition or explicitly included autism in the definition of people served under the state's HCBS waiver for people with intellectual disabilities. States also offer ASD waivers for children. In addition, states are beginning to use the 1915(i) Home and Community Based Services state plan authority to offer services to individuals with ASD. Furthermore, individuals who meet the supplemental security income (SSI) federal definition of disability may qualify for Medicaid services under a HCBS waiver in their state for individuals with disabilities or under section 1902 of the Social Security Act that may include individuals with autism.

Again, I appreciate the IACC's recommendations on this important issue, and I look forward to working with the IACC as we continue to implement the Affordable Care Act. Please do not hesitate to contact me if you have any further thoughts or concerns.

Sincerely,

/Kathleen Sebelius/  
Kathleen Sebelius