

# Compliance Corner

## Update on Federal Health Care Reform and State Issues



May 2015

### Strategy Update

We continue the state filings process for Ameritas and its strategic partners to achieve exchange-certified status, and approval of our pediatric dental plan designs with the Better Benefit feature, in almost all states. The majority of the form and rate filings have been submitted, as well as the certification binders, which were due for the Federally Facilitated Exchange on May 15. Notice of certification approvals for the Federally Facilitated and Partnership Exchange states is expected on September 18, 2015. State-based Exchange approvals will vary.

We continue our efforts to gain exchange-certified status in states that did not previously offer this without actual participation in the Exchange. We were successful in advocacy efforts in Minnesota this past month, with the Department of Commerce and state exchange, MNSure, allowing a path for 2016 dental carrier certification.

We are now putting advocacy efforts forth in Massachusetts to allow for the same path for certification without participation on the exchange. We continue to be concerned however with their application of undetermined Quality Improvement Strategy (QIS) requirements to both medical and dental carriers on the states' exchange.

At the Federal exchange level, the QIS requirements will apply only to medical carriers in 2017 and dental is to be determined at a later time. State specific standards without any guidance from the Federal government or clear standards appear premature. We continue to monitor application of QIS requirements as it may impact off-exchange carriers in the future.

We continue to monitor and advocate as a carrier and through various trade associations against laws and regulations that increasingly expand medical carrier requirements to dental carriers on an issue by issue, state by state basis. Issues such as dental loss ratios, provider directories, state insurer fees, and network adequacy requirements continue to be of concern. The outcome of the King vs. Burwell legal challenge will dictate any changing of the tides in this trend. We continue to advocate for retention of our excepted benefit status for dental and vision products.

## Regulatory Matters and Affordable Care Act Status Update

### Political Landscape

While the review of most proposed legislation to adjust the Affordable Care Act provisions continues to be on hold until after the King vs. Burwell decision, posturing by political parties, consumer advocacy groups and the health care industry continues behind the scenes. Legislation ranges from adjusting the Individual Shared Responsibility requirement, to tax provisions, to coverage requirements. According to a recent review by the Galen Institute, more than 49 significant changes already have been made to the Affordable Care Act: at least 30 that President Obama made unilaterally, 17 that Congress has passed and the president has signed and 2 by the Supreme Court. The Supreme Court heard arguments on one of the largest potential changes to date; the validity of the subsidy payments in King vs. Burwell on March 4. A decision is expected in late June.

### Excise/Cadillac Tax

IRS has issued proposed rules on the Excise Tax on High Cost Employer-Sponsored Health Coverage. The guidance included a specific section stating the IRS was likely to include both insured and self-insured as part of the HIPAA excepted benefit exemption. The National Association of Dental Plans has submitted comments in support of that guidance.

## Equitable Treatment 2.0

Among the proposed changes pending the outcome of the King vs. Burwell legal challenge, the dental benefits industry is continuing the pursuit of equitable treatment of stand-alone dental plans between off and on exchanges. The National Association of Dental Plans (NADP) continues work on a draft amendment for a legislative fix, which would also seek to obsolete the separate exchange certification process for products containing pediatric dental benefits and leave approval of compliant products to the states, as done today.

### Provider Directories

The final instructions for Qualified Health Plans (QHPs) and Stand-Alone Dental Plans (SADPs) both on and off the public exchanges were released under the federal 2016 Letter to Issuers and Benefit and Payment Parameters. A new requirement will apply in 2016 for carriers to list their provider directories in machine-readable format on their websites. This would apply to us as part of our Essential Health Benefit (EHB) certification. We are required to follow the QHP requirements under Network Adequacy, which includes providing CMS our provider directory link. Carriers are concerned with data protection and integrity issues since this would allow anyone access to and the ability to manipulate carrier provider data. It could also have a potential liability risk for carriers if members receive and rely on outdated information created by third parties. We are continuing work with our trade association, the National Association of Dental Plans (NADP) to address these concerns to the Centers for Medicare and Medicaid Services.

## 2016 Small Group Definition

America's Health Insurance Plans (AHIP) has joined the efforts of the U.S. Chamber of Commerce and many trade associations to delay moving businesses with 51 to 99 employees from the large group market to the small group market effective January 1, 2016. They have released a brief requesting support of legislation that would amend the Affordable Care Act to leave the small group market definition at 50 or fewer.

States are reviewing the expansion as well, and several states have released guidance that the small group definition can be delayed in their state under the President's Transitional Period policy, which allowed groups to keep their current non-ACA compliant medical plans until as late as October 1, 2016. Although the state can make the decision to delay the extension until the Transitional Period expires, it is then up to each individual medical carrier in the state to allow non-compliant plans to continue to be offered. Most medical carriers are expected not to allow the extension and require groups with 51 to 99 employees to enroll in an ACA-compliant plan design, pending any passage of amendments to the requirement on the Federal level.

## Ameritas Readiness

We have submitted most of the 2016 exchange certification filings. We are efficiently using this filing window to add additional product enhancements and technical language fixes for approval in all states. We continue to advocate for exchange-certified status in the remainder of states without actual participation on those exchanges.

We continue to monitor and influence the state environments, where regulations can exceed federal parameters and impact the standalone dental market. We are providing education, communications, and product strategies to meet our client and producer needs.

## What else is going on in the states this month:

**Provider Directories:** The proposed legislation in Illinois to require carriers to remove providers from the provider directory if a claim has not been received within a certain time period has been amended to exclude dental. Proposed regulations/legislation is still pending in California, Ohio and Missouri.

**Dental Loss Ratio (DLR):** We continue to work on mitigation of the DLR bill in Washington to a study. In addition, Rhode Island and California also require DLR reporting. The latest state to introduce a DLR bill is Massachusetts, which is proposing a set DLR for dental carriers to adhere to of 90% the first year, and 95% in years thereafter. We continue to work through our trade association to mitigate the impact of these bills and reporting requirements.

**Coinurance:** New Mexico has released a bulletin advising carriers that all insured/policyholder or potential insured/policyholder documents need to reflect cost-sharing requirements from the perspective of the insured/policyholder. We are assessing the bulletin for implications accordingly and recommending an implementation plan.

**Marketing Materials:** New requirements necessitate us to file our marketing materials in Arizona and New Mexico.

For more information:

- visit **ameritas.com** and check out Affordable Care Act under Businesses and Groups
- visit the Affordable Care Act section of **ameritasinsight.com**
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