January 12, 2015

Ms. Marilyn B. Tavenner, Administrator
Centers for Medicare & Medicaid Services
Mr. Kevin Counihan, Deputy Administrator and Director
Center for Consumer Information and Insurance Oversight
P.O. Box 8016
Baltimore, MD 21244-8010
Sent via: FFEcomments@cms.hhs.gov

Re: 2016 Letter to Issuers

Dear Administrator Tavenner and Director Counihan:

The National Association of Dental Plans (NADP) is providing comments on the "Draft 2016 Letter to Issuers in the Federally-facilitated Marketplaces" (Letter). While the Letter focuses on Qualified Health Plan (QHP) requirements with specific sections applying to Stand-Alone Dental Plans (SADP), NADP will be addressing only those sections which apply to QHPs with embedded dental and SADPs on the FFM. While the Letter makes strides in the attention towards oral health benefits, there are a few clarifications and additional concerns we would like addressed in final guidance.

1. **Recommendation**: Ch.1 Sec.1 – *QHP Application and Certification Process* (p.7)

The section proposes filing and application timelines for carriers in 2015, and requires off-Exchange certification of SADPs to parallel this guidance with the exception of the agreement signing. NADP is concerned the current application calendar does not allow enough time for carriers offering on and off-Exchange dental policies to file their policies. To extend the open period to June 1 for applications would provide a more appropriate timeline for carriers to produce more succinct products and networks.

2. **Recommendation**: Ch1. Sec.1 iv. – Data Changes (p.11)

The Letter affirms the availability of Plan Preview in 2016 which allows carriers the ability to see a draft of how their benefit information will be displayed for consumers. In the past, the display has been limited to only a few consumer scenarios. NADP encourages CCIIO to incorporate all the consumer scenarios within the Plan Preview testing site to better accommodate carriers' testing and assure accurate consumer information in the final iteration.

3. **Recommendation**: Ch.1 Sec.1 vi. – *Sale of Ancillary Products on the FFMs* (p.14)

The Letter states the FFM will not be offering additional ancillary products beyond QHPs and SADPs offering Essential Health Benefits (EHB). NADP requests CCIIO include a clarification that reiterates State Based Marketplaces (SBM) can include ancillary products for sale, as long as the SBM follows guidance on the use of federal and state resources provided previously by the Department. From preliminary CCIIO data, young adults are purchasing separate dental policies, and these consumers should be allowed to purchase adult-only products without having pediatric dental EHB included. While carriers can rate family dental products without the EHB, only marketing child-only and family dental plans on the Marketplaces inevitably leads to confusion in the shopping process, particularly for adults without children. Currently, there are states discussing the ability to offer adult-only dental benefits, and an explanation in the Letter clarifying that ability will provide SBMs with greater flexibility to meet their constituents` needs.

4. **Recommendation**: Ch.2 Sec.3 ii. – *Provider Directory Links* (p.23)

The Letter addresses a proposed requirement for issuers to provide machine-readable files on networks to allow data aggregation and the eventual opportunity for third parties to evaluate the data and create informational resources. This proposal was also included as part of the Notice of Benefit and Payment Parameters (NBBP). While this is an admirable goal, NADP continues to oppose the proposal as dental carrier IT resources are still concentrating on Exchange displays and data transactions. As well, carriers are concerned with the downstream data integrity and who becomes accountable for accurate information after forwarding data onto CCIIO.

5. **Recommendation**: Ch2. Sec.3 Sec.4 – *Network Adequacy & Essential Community Providers* (p.21)

NADP believes network adequacy standards must consider the unique needs of respective state populations and the types of policies. Most dental procedures, particularly those for children, can be delivered by general dentists, with 75 percent in active private practice. So the breadth of network providers that might be needed by medical plans is not needed for dental. In 2013, 82 percent of dentists in active private practice participated in dental networks; 77 percent of those participating were general dentists.

NADP appreciates CCIIO's efforts in providing and updating the dental ECP list which has fewer ECPs than past years. While ECP providers by state range from 2 to 109, the average number of dental ECPs per state is 18. With the exception of a few high population states, fewer than six dental providers are added by applying the ECP requirement that was designed for medical plans to dental. Applying the medical ECP threshold to dental has limited impact on a dental carriers' true ability to assure meaningful access for underserved populations while adding a significant administrative burden. The experience of our members in the last year has shown that ECP's are difficult to recruit as part of a commercial network. Many ECPs are overwhelmed by dental plan network solicitations and have become frustrated to the point of refusing to acknowledge or respond to communications. Thus, it can be difficult to demonstrate anything more than outreach to dental ECPs. NADP urges CCIIO to strengthen its own communication and outreach efforts to these providers about openness to dental plan solicitations. While HHS has issued an FAQ, that message has not adequately reached dental ECPs.

For these reasons NADP supports continuation of dental plans ability to submit justification for not meeting the ECP safe harbor standard of 30% and recommends greater recognition of network adequacy that is unique to dental and allow for greater flexibility. An example may be to enable carriers to include a check box on their provider applications to allow the provider to acknowledge they see low-income consumers or operate in dentally underserved areas. States may have different network adequacy criteria that works best for individuals in that state's network plans which carriers should be allowed to rely upon where applicable.

The other issue critical in network development is an adequate timeframe to update provider contracts and onboard new providers. When carriers are notified of problem area(s) during the certification review process, it is critical carriers be allowed to describe the established protocols they have in place to ensure access to care for their members in their justification for providing reasonable access. Network development – from creation of the network model to the discussion and negotiation with providers and signing of contracts – is a complex and critical function in the design of any dental plan that can take months—particularly when ECPs are not open to dental plan solicitations. Requiring issuers to add providers to a network within a short timeframe is unreasonable.

6. **Recommendation**: Ch.2 Sec.14 – *Data Integrity Tool* (p.39)

The Data Integrity Tool (Tool) is a good idea to assure correct data is forwarded from carriers to CCIIO; however, there have been ongoing errors with the tool and the feedback to carriers is not always coherent or helpful. Carriers must utilize time and resources in filling out the Tool, and we recommend the program remain available for carriers to utilize, but until it is fully operational it should not be a requirement for carriers on the FFM/FF-SHOP.

7. **Recommendation**: Ch.4 Sec.4 ii. – *Agent and Broker Agreements* (p.44)

NADP is concerned with brokers and agents being referred to as “downstream entities” and “affiliated” with carriers. While in some cases this may be accurate, many brokers and agents are independent contractors who often sell competing policies and are not affiliated with just one carrier. Carriers affirm the validity of the brokers and agents current state license, but they should not be required to investigate further on their additional ACA training.

8. **Recommendation**: Ch.5 Sec.1 – *Dental Changes* (p.50)

NADP applauds CCIIO’s continued efforts for the FF-SHOP to better align with the private market and are extremely appreciative of the new allowance for SADPs to be offered separately from QHPs. This change will allow greater flexibility to employers and more options for employees. NADP encourages CCIIO to work early and consistently with carriers as this process evolves to make sure the technology and IT support is ready to sustain this change.

NADP encourages CCIIO to pursue this change within the individual marketplace to allow consumers a suite of options when it comes to their benefits. Separating QHPs from SADPs in the AHBE will allow consumers, upon reenrollment, to keep their SADP and change their QHP or vice versa – currently they are tied together and when a consumer changes their medical coverage they must change their dental coverage. Uncoupling

dental from medical would also permit dental carriers to provide direct enrollment, which they cannot offer now.

9. **Recommendation**: Ch.6 Sec.3 – *Meaningful Access* (p.56)

As NADP mentioned in the NBPP, QHP and SADP issuers offer language assistance call centers, which have been used with great success by enrollees. NADP agrees carriers should offer a notice to their enrollees in multiple languages with the availability and instructions on how to reach the carrier's language assistance call center.

Additional interpretation elements, such as translated documents, are not warranted for SADPs. Consumers impacted by these services from a dental carrier offering pediatric oral services is far less than a medical carrier servicing an entire population. In states which have mandated additional language assistance, the requests by enrollees have been so minimal that the costs associated with additional elements such as translated documents or consumer surveys have not been warranted and are excessive when compared to the small and voluntary nature of the dental premium. NADP opposes any application of requirements beyond language assistance call centers and a corresponding notice.

In general, when language assistance is studied in the future by reviewing consumer requests, the assessment should differentiate between medical and dental policies and be included as part of any evaluation.

Additional Recommendations:

10. NADP continues to encourage HHS to work with the Internal Revenue Service (IRS) in developing a clarification bulletin requiring the APTC calculation to include the total premium cost associated with the EHB package. In the instance where the second lowest cost silver plan does not include pediatric dental benefits, the IRS should allow the premium of the QHP as well as the premium of a SADP offering the pediatric dental EHB to count towards the total APTC calculation.
11. NADP continues to be concerned with a lack of clarity when consumers view their dental benefits options on the Marketplaces, whether embedded or offered separately. At this time, consumers cannot always tell whether a medical policy includes dental coverage and the associated cost sharing, including deductibles and out-of-pocket costs. Improved education and transparency on the Marketplace for the consumer from the beginning of the enrollment process is necessary.

We appreciate the clarification and attention dental received throughout the 2016 Letter to Issuers, and we thank you for your consideration of our comments above. Please contact NADP's Director of Government Relations, Kris Hathaway at 972.458.6998x111, khathaway@nadp.org with any questions or concerns.

Sincerely,

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NADP DESCRIPTION

NADP is the largest non-profit trade association focused exclusively on the dental benefits industry, i.e. dental PPOs, dental HMOs, discount dental plans and dental indemnity products. NADP's members provide dental benefits to approximately 90 percent of the 187 million Americans with dental benefits. Our members include the entire spectrum of dental carriers: companies that provide both medical and dental coverage, companies that provide only dental coverage, major national carriers, regional, and single state companies, as well as companies organized as non-profit plans.

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