

# HHS Issues Bulletin on Definition of Essential Health Benefits



PARKER | SMITH | FEEK

December 2011

On December 16, 2011, the Department of Health and Human Services (HHS) issued a bulletin outlining proposed policies that will give States flexibility to define the “essential health benefits” required by the Affordable Care Act (ACA).

Instead of issuing proposed regulations, HHS chose to release the information in the form of a “pre-rule bulletin”. The announcement provides states with a framework for defining, on their own, the essential health benefits that will apply in each particular state. Implementing regulations based on this approach are expected in 2012.

## Background

The ACA requires that beginning in 2014, health plans offered in the individual and small group markets provide a comprehensive package of items and services, known as “essential health benefits.” Large group health plans and self-insured health plans, are not required by the ACA to cover essential health benefits.

Essential health benefits must include items and services within at least the following 10 categories:

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness services and chronic disease management, and
- Pediatric services, including oral and vision care

State Specific Definitions Based on “Benchmark Approach” HHS intends to propose that essential

health benefits are defined using a benchmark approach. Under the Department’s intended approach announced today, states would have the flexibility to select a benchmark plan that reflects the scope of services offered by a “typical employer plan.”

States would choose one of the following benchmark health insurance plans:

- One of the three largest small group plans in the state by enrollment;
- One of the three largest state employee health plans by enrollment;
- One of the three largest federal employee health plan options by enrollment;

The largest HMO plan offered in the state’s commercial market by enrollment. If states choose not to select a benchmark, HHS plans to propose that the default benchmark will be the small group plan with the largest enrollment in the state.

The benefits and services included in the benchmark health insurance plan selected by the state would be the essential health benefits package. Plans could modify coverage within a benefit category so long as they do not reduce the value of coverage.

## Summary

This announcement dramatically changes what many expected to be a more uniform national approach to the definition of essential health benefits. By allowing states to define essential health benefits based on existing small group plans already offered in the state, there will be many cases that will have very little change in the structure of individual and small group plans offered through an exchange beginning in 2014.