California Health Benefit Exchange: CADP Comments on CA HIX Recommendation Brief

Qualified Health Plan Policies and Strategies to Improve Care, Prevention and Affordability

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Introductory Remarks

The California Association of Dental Plans (CADP) appreciates the opportunity to offer comments on the CA HIX Recommendations Brief, focusing on those sections most relevant to the provision of both essential pediatric oral services and supplemental adult and children's dental services. Generally speaking, to arrive at a more fitting recommendation that will benefit California residents where dental benefits are concerned, we believe there needs to be greater clarity with a distinction drawn between the discussion of essential pediatric oral services, which are explicitly allowed to be offered by standalone dental carriers under the ACA (and which are subject to certain ACA reforms and provisions), and supplemental dental benefits for adults and children, which when offered in limited scope plans, ***are in fact no longer subject to those same rules and provisions***. This important distinction between essential children's dental benefits and supplemental adult and children's dental benefits gets lost, and subsequently confuses the discussion of options for how both supplemental and essential pediatric oral services should be structured.

In short, until we can clarify some basic premises being used to develop this recommendation, CADP is unable to comment in a more meaningful way on how ancillary benefits in the exchange should be sold and structured, which is something we most assuredly want to do

For these reasons, CADP would welcome another chance to comment on the staff recommendations once we have some clarifications in hand, and can agree fundamentally with your assumptions about HHS guidance already received. We would also welcome a meeting to discuss these issues further.

To better detail where we are requesting greater clarity and/or have arrived at a different understanding, we changed the format of the provided comment form so that we might chronologically document where in the brief our questions, and comments occur. As for the input regarding the original requests on certification standards and their applicability to essential pediatric oral services, CADP stands by its initial submission in the form of an excel spreadsheet titled "ACA Crossover," where we have already provided that input.

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Pg. 232 /section on Background reads: Under the Affordable Care Act, any supplemental services that are included in the comprehensive benefit package ***are subject to the same terms and conditions as the medical plans, including reform provisions such as coverage of dependents up to the age of 26 and no annual or lifetime dollar limits on benefits.*** When offered on a stand-alone basis, supplemental plans are considered "limited scope." Limited scope plans are not subject to these requirements, so it is unclear whether annual limits and lifetime maximums apply; additional federal guidance is needed.	*Comment/Different Reading of ACA and Regulatory Guidance:* Our Plan and industry-commissioned attorneys do not agree that "further federal guidance is needed," with respect to when supplemental dental services are subject to no annual maximums. Quite the opposite, the ACA and subsequent HHS guidance on this issue are quite clear: The lifting of Annual limits and lifetime maximums apply only to essential health benefits such as pediatric dental benefits. They DO NOT apply to benefits that are supplemental to essential health benefits. HHS reiterates that supplemental benefits would not be subject the ACA's requirements for essential health benefits, such as annual and lifetime limits on page 18411 of the preamble to the Final Exchange Rule. Furthermore, with regard to other market reforms such as dependent coverage to age 26, the ACA defers to the well established exemption for limited scope dental plans as found in 45 CFR 146.145(c)(3)(ii), which reads as follows: *"(3) Limited excepted benefits—(i) In general, limited-scope dental benefits, limited-scope vision benefits, or long term care benefits are excepted if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of a group health plan as described in paragraph (c)(3)(ii) of this section."* HHS has reiterated its recognition of excepted status for limited scope dental services under the Public Health Service Act in several other materials issued to states and in multiple regulations. Therefore, this is not an area in need of additional guidance.
Pg. 234/bullet under heading of "Cost Sharing" reads: The Affordable Care Act guidance as of March 12, 2012 includes recommendations that cost sharing limits and the removal of annual and lifetime maximums apply to both stand-alone pediatric dental and when pediatric dental is incorporated in the medical benefits. ***The regulations do not provide clear guidance around the application of premium and cost sharing subsidies across the medical, dental, and vision Essential Health Benefits.***	*Comment/Different Reading of ACA and Regulatory Guidance*: The ACA suggests in Section 1402(c)(5) that cost sharing reductions do not apply to dental essential health benefits offered by a stand-alone carrier. However, premium subsidies available under Section 1401 of the ACA will be applied to both dental and vision benefits. Pediatric dental essential benefits are to be subsidized using the advance premium tax credit and those subsidies are to be allocated between medical and dental (even when offered as standalone).

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Pg. 235/under additional related issues, section reads: **Requiring Pediatric Dental and Vision Coverage**. Because Pediatric Dental and Vision coverage are Essential Health Benefits, the Exchange will need to ensure that the packages sold to children include these benefits.	*Clarification Sought /Recommendation Offered:* Does the CA HIX assume that childless adults and the parents of pediatric age children do not need to purchase essential pediatric oral services? QHPs and standalone dental carriers could benefit from clarity on this so that they can rate and file their benefit designs for medical and dental accurately On a related issue, CADP requests that the CA HIX clarify that dependents whose age exceeds what HHS determines to be "pediatric" are not required to purchase "essential pediatric oral services," as such a requirement is unrelated to the ACA provision that dependents be eligible under their parent's employer-based coverage up to the age of 26. This age eligibility provision refers strictly to employer-sponsored coverage that must be extended to non-pediatric aged dependents up to age 26. Such non-pediatric coverage need not conform, however, to the dental benchmark employed for purposes of mandated pediatric oral services. Furthermore, such coverage could be offered with an annual maximum as it would not be part of the essential health benefits package.
Pg. 236/section on Issue 1: Offering Supplemental…, reads: **Option A:** Offer supplemental benefits in both the Individual and SHOP Exchanges **Option B:** Offer supplemental benefits only in SHOP Exchange	*Comment:* In the interest of providing access to affordable dental care, CADP disagrees with the recommendation of Option B over Option A. Supplemental dental benefits should be made available to individuals as well as small employers in SHOP from the initial launch of the CA HIX. At the time they are making purchase decisions for their essential health benefits package, purchasers are most likely to be thinking about supplemental coverage. Families may wish to purchase adult coverage to complement the coverage they are mandated to buy for their children, or single adults may be interested in purchasing adult only dental coverage to complement their medical coverage. As supplemental dental benefits offered within a limited scope plan are not subject to market reforms or other ACA provisions affecting essential health benefits (or premium subsidies), carriers will be able to offer such products on a flexible, uncomplicated basis where the individual is free to choose or ignore such offerings.
Pg. 236/section on explaining recommendation of Option B under Offering Supplemental, reads: At the same time, the required pediatric dental EHB would be offered in the Individual Exchange either through stand-alone dental plans or with these benefits embedded in comprehensive Qualified Health Plans.	*Comment/Clarification Sought:* This sentence potentially conflicts with the recommendation on page 237 where option B would seem to preclude the offer of required pediatric oral services by a QHP as an embedded benefit and require the offering of dental benefits only as a standalone product. CADP would request clarification as to whether the recommendation for Option B is associated just with

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	supplemental benefits, or also is meant to include the essential pediatric benefit. (See next comment where we address additional ambiguities that arise in the discussion and recommendations covered within Table 56.)
Pg. 237/Options and Recommendation for Structuring Dental and Vision Options, referring to Table 56 for detail, reads: **Option A**: Offer dental and vision coverage only embedded as part of medical QHP plans **Option B**: Offer stand-alone dental and medical plans **Option C**: Offer a combination of (a) stand-alone dental, vision, and medical plans; and (b) medical plans with embedded dental and vision benefits Staff recommends offering stand-alone dental plans and medical plans (Option B). This does not preclude the Exchange from accepting bids from Qualified Health Plans that cover the full complement of Essential Health Benefits.	*Comment / Clarifications Sought:* CADP would support that there should be a sufficient number of medical-only and dental only options such that consumers are free to pair the dental-only plan they want with the medical plan they may want. In reading the recommendations made in the brief, CADP would request clarification about the direction suggested to the Board. Our questions and concerns include: 1) First and foremost, it is not clear which or whether any of these three options refer to essential pediatric oral and vision services, to supplemental oral and vision services, or both. The distinction is critical because only essential benefits are subject to no annual or lifetime dollar limits on benefits, while supplemental benefits are not. Meanwhile, market reforms only affect benefits embedded within a QHP, while limited scope plans are exempt from these reforms. 2) Option A is in fact not a permissible option under the ACA, hence CADP is unclear why it's even mentioned. The brief subsequently recognizes this when stating that: "…allowing stand-alone dental plans to be considered in the Exchange is required by the Affordable Care Act." We agree, hence shouldn't Option A simply be deleted? 3) The section is entitled "Structuring Dental AND Vision," yet Option B refers only to dental and medical plans, while Options A and C reference vision as well. As the ACA contains no language providing for the carve-out and offer of pediatric vision services as a standalone offering (as it does quite explicitly for pediatric dental) is staff recommending that vision be offered on a standalone basis, consistent with how dental is offered? 4) Does the staff recommendation of Option B include both essential pediatric oral services *AND* supplemental benefits? If so, this would contradict page 236 where staff suggests – seemingly beyond question – that dental and vision *can* be embedded as well as offered standalone. 5) Option C is called the preferred option ***if*** annual and lifetime dollar limits and cost-sharing can be used for supplemental benefits. As addressed in our comment on page

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	232, annual and lifetime limits are allowable for supplemental benefits, hence, will staff stipulate that Option C is the staff recommendation? If so, and as Option B "does not preclude the Exchange from accepting bids from Qualified Health Plans that cover the full complement of Essential Health Benefits," how are Options B and C materially different? Both appear to envision the co-offer of embedded and standalone essential pediatric dental and vision services – and perhaps adult supplemental dental benefits as well. For the record, CADP agrees with this approach.
Pg. 237/ the concluding paragraph prior to tables 55 and 56 reads: **Although Option C provides the greatest level of consumer choice, it removes an important cost control mechanism for dental and vision services.** The Affordable Care Act requirement that dental and vision benefits included in comprehensive medical benefits are precluded from financial limits on benefits is a significant departure from current practices. Therefore, a richer benefit than is available in the external market suggests that premium rates will consequently be higher, raising the total premium for all enrollees and thereby discouraging enrollment in the Exchange. **If further federal guidance provides the option of imposing annual limits for these services, Option C would be preferred, to maximize consumer choice.**	*Comment:* As suggested earlier in our comments, the ACA and subsequent HHS guidance is clear with respect to the prohibition on annual maximums for essential health benefits. Essential pediatric oral services can never be limited inside an Exchange with an annual maximum, irrespective of those benefits being offered by a QHP or by a standalone limited scope dental plan. Non-essential health benefits can be limited using an annual or lifetime maximum regardless of the type of plan offering the benefits. There is nothing inherently more expensive about dental plans that are structured under Option C rather than with Option B, therefore Option C as described should be clearly identified as the staff recommendation.
Pg. 239 Table 26/section on Option Pros and Cons reads: **Option B Pro and Option C Pro** Allows individual with existing dental coverage outside of the exchange to keep their current coverage **Option C Con** Could create adverse selection if Affordable Care Act restrictions on annual and lifetime limits are imposed on dental and vision services.	*Comment:* As referenced earlier, CADP would agree with the idea to allow individuals with existing pediatric oral services outside the exchange to keep such coverage. However, on page 235, the brief states that "the Exchange will need to ensure that the packages sold to children include these benefits." Is this a contradiction? We urge this issue be clarified to address how individuals can keep their existing dental coverage to meet the essential benefit mandate, both inside and outside the Exchange, so as to not duplicate coverage. Also repeating our earlier comments, this should not be in question as the ACA clearly imposes annual and lifetime limits on essential pediatric oral and vision services offered inside the Exchange, regardless of whether the benefits are offered stand-alone or embedded, but does not impose annual or lifetime limits on non-essential/supplemental benefits offered stand-alone or embedded. Therefore, Option C poses no greater risk of adverse selection than does Option B.