

September 30, 2015

To: Center for Consumer Information & Insurance Oversight (CCIIO)
Re: Nevada 2017 Benchmark Plan Comments

Dear CCIIO Official:

The American Occupational Therapy Association (AOTA) is the national professional association representing the interests of more than 213,000 occupational therapists, students of occupational therapy, and occupational therapy assistants. The practice of occupational therapy is science-driven, evidence-based, and enables people of all ages to live life to its fullest by promoting health and minimizing the functional effects of illness, injury, and disability. AOTA appreciates the opportunity to comment on the 2017 benchmark plans and their coverage of occupational therapy within the benefit category “rehabilitative and habilitative services and devices” in the Essential Health Benefits (EHBs) package under Section 1302 of the Affordable Care Act (ACA). **Nevada’s benchmark plan fails to comply with the regulatory requirements of the ACA because it denies coverage for habilitative therapy services that would maintain function.**

In December 2013, AOTA began analyzing coverage of occupational therapy in the first Marketplace plans, and in November 2014 produced a report (www.aota.org/ehb-report) identifying significant gaps and variation in coverage of rehabilitative and habilitative services and devices. Some states allowed very low annual limits on the number of covered outpatient therapy visits, and in many cases plans combined the limits for rehabilitation and habilitation.

AOTA advocated for inclusion of habilitative services alongside rehabilitative services in the EHBs, and we were pleased when early this year HHS codified a strong uniform definition of habilitative services in the *Notice of Benefit and Payment Parameters for 2016* final rule that includes occupational therapy as an example of a service that may be covered. To ensure comprehensive coverage of habilitative services, all states should adopt a rehabilitative and habilitative benefit that complies with this minimum standard. See §156.115(a)(5) of the final rule: “Habilitation services and devices – Cover health care services and devices that help a person keep, learn, or improve skills and functioning for daily living (habilitative services). Examples include therapy for a child who is not walking or talking at the expected age. These services may include physical and occupational therapy, speech-language pathology, and other services for people with disabilities in a variety of inpatient and outpatient settings.” The final rule states that issuers may not impose any limits on habilitation that are less favorable than those imposed on rehabilitation, or allow combined limits on habilitation and rehabilitation.

AOTA’s review of the 2017 EHB benchmarks found that many of the problems we identified in our 2014 report have not been corrected in the 2017 benchmark plans, and are among several common themes among the states’ benchmarks:

- Offering no coverage at all for habilitative services;
- Offering no coverage or limited coverage of rehabilitative services;
- Placing limits on habilitative that are less favorable than those on rehabilitative services;
- Combining limits on habilitative and rehabilitative services;
- Allowing very low visit limits for occupational therapy, physical therapy, and speech-language pathology;
- Excluding the “keep” in “keep, learn, or improve skills and functioning for daily living” by barring therapy service that maintain function. **Nevada’s benchmark plan defines habilitative services in a way that excludes therapy to maintain or prevent deterioration in function, stating that such services are no longer habilitative;** and
- Discriminatory benefit designs that limit therapy services to one condition or age group.

CCIIO should address these definitional and coverage issues before the benchmark plans are adopted to ensure that consumers in every state have access to comprehensive benefits for both rehabilitative and habilitative services and devices.

We appreciate the opportunity to comment on the 2017 benchmark plans. If you have any questions, please contact Laura Hooper at lhooper@acta.org or (240) 752-1168.

Sincerely,



Laura Hooper
Manager, Health Policy