

June 20, 2012

**TESTIMONY OF DEBORAH KELCH
CALIFORNIA DEPARTMENT OF INSURANCE
INFORMATIONAL HEARING ESSENTIAL HEALTH BENEFITS BENCHMARK**

We are here today to consider one of the foundations of the federal Affordable Care Act, essential health benefits. Essential health benefits will apply (be a benefit floor) for everyone in individual and small employer health care coverage, inside or outside of the Health Benefit Exchange -- as well as for individuals and families newly eligible for Medi-Cal.

Essential health benefits is a key promise of the Affordable Care Act. It is the promise to consumers that every policy they look at, every contract they consider will have the same core of benefits covered regardless of the type of health plan -- HMO or PPO -- integrated delivery system or contracted network of providers, fee-for-service or capitation.

Consumers can then look at other aspects of the products available to make their decision -- cost sharing (deductible, copayments), the delivery system or network. Is my doctor, pharmacy or hospital included? What additional benefits or coverage am I willing to pay for?

In California, we have to get to uniformity using two very different statutory and regulatory frameworks under Department of Managed Health Care and Department of Insurance. Our message today is that given this unique California challenge, we must all work together to make sure we can deliver on that promise to consumers. Essential health benefits should mean the same minimum coverage for every contract or policy, whether overseen by DMHC or CDI. Since last Fall and the release of the federal Bulletin on essential health benefits we now have multiple comparison tables of the 10 benefit benchmark options for California at a very high level, covered or not, unlimited or limited, and estimates of the relative cost differences. For those of us who have read the various evidence of coverage documents, however, and tried to compare them at a more detailed level, we know that while they all seem very similar when compared as a list of benefits, the details suggest there may be large differences in coverage.

For example, health plans regulated by DMHC must provide many of the essential health benefits as “basic health care services,” when medically necessary, and as defined in detailed regulations. For DMHC plans, inpatient hospital coverage must include, among other elements, all of the lab and X-ray services, medications, therapies, and diagnostic services provided during the hospital stay, regardless of the number of days, subject to deductibles and copayments. Outdated Insurance Code regulations define a hospital benefit based on whether it is of “real economic value,” defined as an amount that is at least \$30 per day for at least 60 days; a benefit for miscellaneous hospital services of at least five times the hospital benefit. These are very different approaches to hospital coverage.

If policymakers choose a CDI policy as the benchmark, unless basic health care services is repealed, DMHC health plans would still have to cover basic health care services, as defined. CDI insurers would have to cover benefits as outlined in the benchmark plan but would not be subject to the DMHC basic health care service definitions. Would basic health care services under DMHC, if continued, be considered a state mandate not covered in the benchmark? Would the state be required to defray the costs? These are among the many questions policymakers and regulators will ultimately have to tackle and which may be made more clear in subsequent federal guidance.

If policymakers choose a DMHC benchmark plan, such as the Kaiser small employer HMO plan proposed in pending legislation, essential health benefits in all products would include three types of benefits: (1) basic health care services (2) federal essential health benefits that are not basic health care services (such as prescription drugs and pediatric oral and vision) and (3) benefits in the benchmark that are not either basic health care services, or federal essential health benefits, but are covered in the benchmark. Implementation would then need to address the benefit definitions to make sure they are uniform.

These are just a few examples. The Affordable Care Act has given us a new context and created a new expectation for how health insurance will be marketed, priced and sold. It is an opportunity to eliminate differences and complexity rooted in the past. To do this, we will need to consider, work through and revise as needed complex provisions of existing law and in some cases leave behind old terminology and inconsistent approaches.

Again, our message here today is that policymakers must choose a benchmark, and an implementation approach, to keep the promise to consumers that they will not have to worry about the minimum essential health benefits -- regardless of which product they choose, they will get coverage for the same minimum set of benefits. We look forward to working collaboratively to accomplish this goal.



Supported by a grant from the California HealthCare Foundation to the Kelch Policy Group, the *Health Insurance Alignment Project* provides policy research, analysis and strategic assistance to advance the goals of reducing duplication, improving transparency and maximizing consumer protections in health insurance oversight in California.

The objectives of the Project are to: (1) Advance federal Affordable Care Act health insurance market reforms by providing California-specific analysis and offering technical assistance and process facilitation to key decision makers and

staff; (2) Improve coordination and accountability of health insurance oversight through analysis and commentary, highlighting state challenges and opportunities related to health insurance oversight; and (3) Engage in a process and develop a framework for assessing long-term progress toward implementation of ACA reforms and effective health insurance oversight in California.

Kelch Policy Group is an independent health policy research and consulting firm based in Sacramento, California. The firm founder, Deborah Reidy Kelch, MPPA has more than 30 years of experience in California health policy, including 15 years as policy and fiscal staff to the California State Legislature.