

CLIENT ALERT

IOM Issues Report, Essential Health Benefits: Balancing Coverage and Costs

Oct.21.2011

The Patient Protection and Affordable Care Act ("ACA") requires that healthcare benefits offered to individuals and small groups include a package of "essential health benefits" (EHB). The ACA provides some parameters and guidance for what EHB should include, but stops well short of defining EHB. On October 7, 2011, the Institute of Medicine (IOM) issued a 314-page report that undertakes to answer the question, "How, exactly, should one go about deciding what to include as essential in a health insurance plan?" That is, the IOM report describes how the federal government should go about defining EHB. The chief concern relating to EHB's definition, as the report's preface notes, is that "[i]f the package of benefits is too narrow, health insurance might be meaningless; if it is too broad, insurance might become too expensive."

The IOM panel made two key decisions that framed the rest of the defining process. First, it decided that a "typical employer" should be a small rather than a large employer, and made a small employer's business profile basic to the cost criteria for definitions of EHB. And second, the panel opted for a definition of "essential" that establishes a set of basic requirements and that does not encompass every service included in the 10 statutorily mandated service categories or every service included in a typical employer plan.

These antecedent definitions make up much of the platform on which the panel rests Chapter 5, "Defining the EHB," which spells out steps for arriving at a definition in Recommendation 1:

By May 1, 2012, the Secretary should establish an initial essential health benefits (EHB) package guided by a national average premium target.

- A. The starting point in establishing the initial EHB package should be the scope of benefits and design provided under a typical small employer plan in today's market. To specify the initial EHB package, this scope of benefits should then be modified to reflect
 - The 10 general categories specified in Section 1302(b)(1) of the Affordable Care Act (ACA); and
 - The criteria specified in this report for the content of specific elements and aggregate EHB package (see Summary Figure S-2).
- B. Once a preliminary EHB list is developed as described in (A), the package should be adjusted so that the expected national average premium for a silver plan with the EHB package is actuarially equivalent to the average premium that would have been paid by small employers in 2014 for a comparable population with a typical benefit design.
- C. The Secretary should sponsor a public deliberative process to assist in determining how the adjustments to the EHB package should be made.
- D. Initial guidance by the Secretary on the contents of the EHB package should list standard benefit inclusions and exclusions at a level of specificity at least comparable to current best practice in the private and public insurance market.

Other salient points in the IOM report include a discussion of how to define "medical necessity" (Chapter 5), a recommendation that HHS establish a research framework for collecting and analyzing data in order to evaluate EHB implementation (Chapter 7), and support for potential waivers from the federally defined EHB to states whose alternative EHB definitions are consistent with the ACA and with the criteria specified in IOM's report (Chapter 8).

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.