Essential Health Benefits Benchmark Workgroup

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May 23, 2024

Background

What are essential health benefits (EHBs)?

- EHBs are the following set of 10 categories of benefits that non-grandfathered health insurance plans in the individual and small group markets must cover under the Patient Protection and Affordable Care Act (ACA):

- 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.

Benefits not considered to be EHBs

- Insurers of a plan may not include the following as an EHB:
  - routine non-pediatric eye exam services;
  - long-term/custodial nursing home care benefits; and
  - non-medically necessary orthodontia.
- A health plan does not fail to provide EHBs solely because it does not offer the abortion services.

What is an EHB benchmark plan?

- It serves as a minimum standard on which all new individual and small group plans are modeled, including specifics of how EHBs are covered.
- The ACA requires states to set (or default to) a set of EHBs to be provided in every policy of individual or small group health insurance coverage.
  - There is no requirement for a state to update or revise its existing EHB benchmark.
  - If Virginia opts not to update or revise, it will continue to utilize its existing EHB benchmark plan.
- Per the Centers for Medicare and Medicaid Services (CMS), the EHB benchmark plan cannot set cost sharing requirements.

Changing the EHB benchmark plan

- If a state selects a new EHB benchmark plan, it is required to submit to:
  - document confirming the plan complies with requirements of 45 CFR § 156.111(a), (b), and (c);
  - an actuarial certification and associated actuarial report;
  - document reflecting benefits and limitations, a schedule of benefits, and if applicable, a formulary drug list; and
  - other documentation specified by US Department of Health and Human Services.
- The actuarial report must affirm that the plan provides a scope of benefits equal to the scope of benefits of the state's typical employer plan.
  - Scope must be as or more generous than the state's least generous typical employer plan.
  - Scope must be as or less generous the state's most generous typical employer plan.

Health benefits mandated by Virginia

- A health benefit may be included in the state's EHB benchmark plan, even if there is no previous state action mandating the provision of that benefit.
- A plan will be certified as a qualified health plan (QHP) if it meets the EHB benchmark plan, with some exceptions.
  - The QHP has the option to provide any state-mandated health benefit that is not provided in the EHB benchmark plan.
- Any benefit not included in the EHB benchmark plan that is required by state action taking place on or after January 1, 2012 is considered "in addition to EHB."
- A state can mandate benefits "in addition to EHB" but if so, must make payments to defray the cost.

What is not considered “in addition to EHB”?

- Mandates enacted prior to 2012;
- Mandated provider or cost-sharing requirements;
- Technical corrections not related to the benefit;
- Mandates related to method of delivery (telemedicine);
- Mandates enacted to comply with federal law (e.g., ACA, Mental Health Parity and Addiction Equity Act, etc.); or
- Mandates for a benefit covered in the EHB benchmark plan.

EHB benchmark plan review

Health Insurance Reform Commission (HIRC)

- HIRC is tasked with assessing legislatively-proposed mandates referred by the chairs of legislative committees having jurisdiction over those bills.
- Once legislation is referred to HIRC, the Bureau of Insurance (BOI):
  - analyzes the extent to which the proposed mandate is currently available under Virginia's QHPs; and
  - advises HIRC as to whether the proposed mandate exceeds or is likely to exceed the scope of the EHBs.

HIRC mandate review process

- Following BOI's assessment, HIRC may direct the proposed mandate be:
  - Considered as part of an EHB benchmark plan review;
  - Jointly assessed for the social and financial impact and medical efficacy by BOI and the Joint Legislative Audit and Review Commission (JLARC), to include:
    - an estimate of effects of enactment of the proposed mandate on health coverage costs in Virginia; and
    - Virginia's cost for defrayal if the mandate is determined to be "in addition to EHB"; or
  - Considered in another manner by HIRC.

EHB benchmark review workgroup

- Chapter 698 of the 2023 Acts of Assembly created a periodic review process of Virginia's EHB benchmark plan every 5 years, beginning in 2024.
- This workgroup is the first step in a process that may result in a new EHB benchmark plan's adoption for plan year 2028.
- BOI will facilitate the workgroup and report on its activities to HIRC.
- **BOI's analysis shall be advisory only.**
- HIRC considers the workgroup's findings and recommendations when identifying benefit changes to include in the application to change the EHB benchmark plan.

Workgroup goals & resources

- Provide a forum for stakeholder discussion of potential changes to include in a new EHB benchmark plan.
- Identify recommendations for HIRC to consider in determining which changes to include in the EHB benchmark plan review.
- BOI has engaged a contract actuary to provide technical support for the workgroup and help with preparation of the potential application to adopt a new EHB benchmark plan.
- **What other resources do stakeholders believe are needed to support workgroup activities?**

EHB benchmark review electronic resources

- BOI has established a website to convey relevant information to the public for this benchmark plan review.: https://scc.virginia.gov/pages/Essential-Health-Benefits-Benchmark-Plan
- BOI has created a dedicated email inbox for public comments related to this benchmark plan review: EHBcomments@scc.virginia.gov

Workgroup meetings

- In addition to this meeting, BOI has scheduled 3 additional stakeholder workgroup meetings:
  - June 10, 2024 at 1:00pm-4:00pm;
  - July 18, 2024 at 1:00pm-4:00pm; and
  - August 22, 2024 at 1:00pm-4:00pm.

EHB benchmark review timeline

- **During 2024:** BOI convenes stakeholder workgroup meetings.
- **March 31, 2025:** BOI reports to HIRC on workgroup findings and assessments of proposed benefit changes.
- **Before June 30, 2025:** HIRC conducts two public hearings regarding potential benefit changes.
- **June 30, 2025:** HIRC determines if Virginia will apply for a new EHB benchmark and what potential benefit changes should be further analyzed.
- **September 30, 2025:** BOI presents actuarial analysis of benefit changes identified by HIRC.
- **Before December 31, 2025:** If Virginia will be applying for a new EHB benchmark, HIRC conducts two additional public hearings.
- **December 31, 2025:** HIRC will determine which, if any, potential benefit change will be included in the new benchmark plan
- **May 2, 2026:** Federal deadline for application for plan year 2028 EHB benchmark plan change.

EHB benchmark legislative action

- If HIRC recommends Virginia apply for a new EHB benchmark for plan year 2028, legislation must be enacted during the 2026 legislative session that directs BOI to select a new benchmark plan that includes specific benefit changes.

Questions