// Potomac Current
The Monthly Advocacy Newsletter of the ASMBS

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HEADLINES

Akaka/Inouye Call for EHB Obesity Coverage

Medicare Looking to Cover Obesity Counseling

HHS Suggests Excluding Bariatric Surgery

OCC Reaches Out to FDA...Again

Hawaii Senators Lead Charge for HHS Covering Obesity as Essential Benefit

United States Senators Daniel Inouye (D-HI) and Daniel Akaka (D-HI) have taken the lead in asking their fellow Senate Colleagues to join them in sending a letter to Department of Health and Human Services (HHS) Secretary Kathleen Sebelius urging her to "better standardize access to obesity treatment services through HHS establishing a comprehensive definition of "preventive and wellness services and chronic disease management" services within the essential health benefits (EHB) package under the new health care reform law to include the full continuum of medically necessary interventions, including behavioral, nutritional, pharmaceutical, psychosocial and surgical, to treat those affected by obesity."

We urge you to access the Obesity Action Coalition's (OAC) Legislative Action Center at http://capwiz.com/obesityaction/home/ to send a pre-drafted message to your United States Senators urging them to sign the Akaka/Inouye letter to HHS Secretary Sebelius.

Medicare Proposes National Coverage Policy for Obesity Counseling

On August 31, 2011, the Centers for Medicare & Medicaid Services (CMS) issued a National Coverage Decision (NCD) memorandum regarding intensive behavioral counseling for Medicare beneficiaries affected by obesity. At press time, ASMBS was still reviewing the full NCD memorandum. Following are the basic coverage guidelines outlined in the August 31 NCD:

Intensive behavioral therapy for obesity consists of the following:

1) Screening for obesity in adults using measurement of BMI calculated by dividing weight in kilograms by the square of height in meters (expressed in kg/m2); 2) Dietary (nutritional) assessment; and 3) Intensive behavioral counseling and behavioral therapy to promote sustained weight loss through high intensity interventions on diet and exercise.

The intensive behavioral intervention for obesity should be consistent with the 5-A framework that has been highlighted by the USPSTF:

1. Assess: Ask about/assess behavioral health risk(s) and factors affecting choice of behavior change goals/methods.

2. Advise: Give clear, specific, and personalized behavior change advice, including information about personal health harms and benefits.

3. Agree: Collaboratively select appropriate treatment goals and methods based on the patient's interest in and willingness to change the behavior.

4. Assist: Using behavior change techniques (self-help and/or counseling), aid the patient in achieving agreed-upon goals by acquiring the skills, confidence, and social/environmental supports for behavior change, supplemented with adjunctive medical treatments when appropriate.

5. Arrange: Schedule follow-up contacts (in person or by telephone) to provide ongoing assistance/support and to adjust the treatment plan as needed, including referral to more intensive or specialized treatment.

For Medicare beneficiaries with obesity, who are competent and alert at the time that counseling is provided and whose counseling is furnished by a qualified primary care physician or other primary care practitioner and in a primary care setting, CMS proposes to cover:

- One face to face visit every week for the first month;
- One face to face visit every other week for months 2-6;
- One face to face visit every month for months 7-12.

At the six-month visit, a reassessment of obesity and a determination of the amount of weight loss should be performed. To be eligible for additional face to face visits occurring once a month for an additional six months, beneficiaries must have achieved a reduction in weight of at least 3kg over the course of the first six months of intensive therapy. This determination must be documented in the physician office records for applicable beneficiaries consistent with usual practice.

HHS Proposed Regulations Suggest Excluding Coverage for Bariatric Surgery and Weight Loss Programs

On August 17, 2011, the U.S. Department of Health and Human Services (HHS), in conjunction with the Treasury and Labor Departments, issued proposed regulations under the Patient Protection and Affordable Care Act to implement the disclosure for group health plans and health insurance issuers of the summary of benefits and coverage (SBC) and the uniform glossary. This document proposes a template for an SBC; instructions, sample language, and a guide for coverage examples calculations to be used in completing the template; and a uniform glossary that would satisfy the disclosure requirements under section 2715 of the Public Health Service (PHS) Act.

The Obesity Care Continuum (OCC) is deeply concerned regarding the sample Summary of Benefits and Coverage (SBC) document, which HHS included in the aforementioned proposed regulations because this document specifically enumerates “bariatric surgery” and “weight loss programs” under the “excluded services” section on page 4 of the sample SBC (see below). For the last 10 months, the OCC has made numerous efforts to oppose HHS including the sample SBC document in any proposed regulations. these efforts have included numerous meetings with the National Association of Insurance Commissioners, HHS, and President Obama’s Domestic Policy Council.

Insurance Company 1: PPO Plan 1 Policy Period: 1/1/2011 – 12/31/2011
Summary of Coverage: What this Plan Covers & What it Costs **Coverage for:** Individual + Spouse | **Plan Type:** PPO

Excluded Services & Other Covered Services:

Services Your Plan Does NOT Cover (This isn't a complete list. Check your policy for others.)

- Bariatric surgery
- Non-emergency care when traveling outside the U.S.
- Cosmetic surgery
- Dental care (Adult)
- Infertility treatment
- Long-term care
- Private-duty nursing
- Routine eye care (Adult)
- Routine foot care
- Routine hearing tests
- Weight loss programs

Other Covered Services (This isn't a complete list. Check your policy for other covered services and your costs for these services.)

- Acupuncture
- Chiropractic care
- Hearing aids

Your Rights to Continue Coverage:

You can keep this insurance as long as you pay your premium unless one or more of the following happens:

- you commit fraud
- the insurer stops offering services in the state
- you move outside the coverage area

Your Grievance and Appeals Rights:

- A **grievance** is a complaint you have about your health insurer or plan. You have the right to file a written complaint to express your dissatisfaction or denial of coverage for claims under this health insurance. Call 1-800-XXX-XXXX or visit www. Xxxxxxxxxxxxxx.com.
- An **appeal** is a request for your health insurer or plan to review a decision or a grievance again. For more information on the appeals process, call your state office of health insurance customer assistance at: 1-800-XXX-XXXX or visit www. Xxxxxxxxxxxxxx.gov.

To see examples of how this plan might cover costs for a sample medical situation, see the next page.

Questions: Call 1-800-XXX-XXXX or visit us at www.insurancecompany.com.
If you aren't clear about any of the terms used in this form, see the Glossary at www.insuranceterms.gov. 4 of 6

The OCC will be issuing a special Health Policy Alert during September regarding these proposed regulations and a strategic plan to oppose this specific aspect of the HHS proposed Summary of Benefits and Coverage document,

OCC Submits Patient Prescribing Profile to FDA regarding Obesity Drugs

On August 31, 2011, the Obesity Care Continuum (OCC) sent a strong letter to FDA regarding the OCC's continuing concern over the agency's reluctance to approve any new obesity drugs – no mater how strict the indicated patient criteria.

In an effort to assist the FDA, the OCC highlighted what it believes to be the appropriate patient profile for prescribing drugs for weight loss. Specifically, the Continuum discussed who is at greatest risk for side effects and what is the best way to assure that the appropriate patient is prescribed obesity medications in an appropriate way. In closing, the member groups of the OCC urged FDA to take positive action -- stressing that "in the face of an epidemic of overweight and obesity and the health risks that are associated, it is imperative that physicians have access to medications to help their patients."