



Date: May 26, 2016

Subject: Frequently Asked Questions on Health Insurance Market Reforms and Marketplace Standards

Q: For plans that must provide coverage of the essential health benefit package under section 1302(a) of the Affordable Care Act, if an issuer imposes a waiting period before an enrollee can access a covered benefit, is that a violation of the EHB requirements?

Yes. We are revising our previously released guidance (May 16, 2014 *Frequently Asked Questions on Health Insurance Market Reforms and Marketplace Standards*,^[1]) in which we explained the policy in regard to waiting periods for essential health benefits (EHBs). In that FAQ we stated that waiting periods for specific benefits may discourage enrollment of or discriminate against individuals with significant health needs or present or predicted disability. In addition, imposing a waiting period on an EHB could mean the issuer is not offering coverage that provides EHB as required by 45 CFR 156.115.

After further consideration of whether pediatric orthodontia should be excepted from this prohibition on waiting periods, we are revising our policy to no longer allow waiting periods for pediatric orthodontia, as we have determined that the same concerns we previously noted also apply to these benefits. This FAQ supersedes the previously noted FAQ, and it is immediately applicable prospectively to all plans subject to the requirement to provide EHB. For issuers that have submitted plans subject to EHB to their State regulatory authorities for approval and/or to the Marketplace in their State for certification, we recognize that it may be difficult to make any necessary changes to such plans in time for the start of the 2017 benefit year. Therefore, we expect issuers to make such changes at the earliest possible opportunity to do so in accordance with applicable federal and state law, but no later than plan years beginning on or after January 1, 2018, and will not take enforcement action until such time. We encourage States to take a similar enforcement approach.

^[1] <https://www.cms.gov/ccio/resources/fact-sheets-and-faqs/downloads/final-master-faqs-5-16-14.pdf>