

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 814  
(I-16)

Introduced by: Connecticut, Maine, Massachusetts, New Hampshire,  
Rhode Island, Vermont

Subject: Addressing Discriminatory Health Plan Exclusions or  
Problematic Benefit Substitutions for Essential Health  
Benefits Under the Affordable Care Act

Referred to: Reference Committee J  
(Candace E. Keller, MD, Chair)

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- 1 Whereas, Improving patient outcomes is an American Medical Association goal; and  
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3 Whereas, The Affordable Care Act requires that benefits are provided without discrimination  
4 based on health condition, race, color, national origin, age, disability, sex, sexual orientation or  
5 gender identity; and  
6  
7 Whereas, Covered benefits in states still vary widely, including gaps in coverage, arbitrary limits  
8 ,discriminatory benefit designs and/or cost-sharing on the basis of age, sex, gender, degree of  
9 medical dependency, gender identity, disability, and quality of life; and  
10  
11 Whereas, Gaps in women’s health coverage persist because insurers often exclude health  
12 services women are likely to need, leaving women vulnerable to higher costs and denied claims  
13 that threaten economic security and physical health; and  
14  
15 Whereas, Six categories of services are frequently excluded from insurance coverage that  
16 disproportionately affect women such as treatment of conditions resulting from non-covered  
17 services, (e.g. (e.g. Treatment of an infection after a non-covered prophylactic mastectomy)  
18 maternity care, gender transition, maintenance therapy, genetic testing, self-inflicted conditions,  
19 fetal surgeries, and preventive services; and  
20  
21 Whereas, Parity violations persist for a number of critical services, including, but not limited to  
22 mental health and substance abuse disorders, and gaps persist in coverage for pediatric  
23 services, including dental and vision services, habilitative services and prescription drugs; and  
24  
25 Whereas, Service exclusions and benefit substitutions are often described in health plan  
26 materials in language that is difficult to fully comprehend; therefore be it

- 1 RESOLVED, That our American Medical Association work with state medical societies and their  
2 state regulators to facilitate the following:
- 3 1. Prohibit health plans from imposing arbitrary limits that are unreasonable or potentially  
4 discriminatory for coverage of the Essential Health Benefits.
  - 5 2. Require any insurer, whose plans contain exclusions that are not in the state Essential  
6 Health Benefits benchmark plan, demonstrate that its benefits are substantially similar and  
7 actuarially equivalent to the benchmark, in compliance with federal regulations.
  - 8 3. Define the state habilitative Essential Health Benefits definition that goes beyond the federal  
9 minimum definition.<sup>3</sup>
  - 10 4. Review current plans for discriminatory exclusions and require insurers to revise these plans  
11 if discriminatory exclusions present;
  - 12 5. Review consumer complaints for incidents of discriminatory benefit and formulary design,  
13 cost-sharing, problematic Essential Health Benefits substitutions or exclusions.
  - 14 6. Prohibit insurer benefit substitutions in the Essential Health Benefits (Directive to Take  
15 Action); and be it further  
16
- 17 RESOLVED, That our AMA work with federal regulators to:
- 18 1. Improve the Essential Health Benefits benchmark plan selection process to ensure arbitrary  
19 limits and exclusions do not impede access to healthcare and coverage.
  - 20 2. Develop policy to prohibit Essential Health Benefits substitutions that do not exist in a state's  
21 benchmark plan or selective use of exclusions or arbitrary limits to prevent high-cost claims  
22 or that encourage high-cost enrollees to drop coverage.
  - 23 3. Review current plans for discriminatory exclusions and submit any specific incidents of  
24 discrimination through an administrative complaint to Office for Civil Rights. (Directive to  
25 Take Action)

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#### References

<sup>1</sup> The Commonwealth Fund, August 2016, <http://www.commonwealthfund.org/>

<sup>2</sup> The National Women's Law Center, State of Women's Coverage: Health Plan Violations of the Affordable Care Act (NWLC 2015), National Women's Law Center, <http://nwlc.org/wpcontent/uploads/2015/04/stateofwomenscoverage2015final.pdf>

<sup>3</sup> The federal definition of habilitative services is health care services that help a person keep, learn or improve skills and functioning for daily living. Examples include therapy for a child who is not walking or talking at the expected age. These services may include physical and occupational therapy, speech-language pathology and other services for people with disabilities in a variety of inpatient and/or outpatient settings. Found in the CMS glossary of medical terms and finalized in 2016.

Fiscal Note: Not yet determined

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