1444 I Street, NW
Suite 1105
Washington, DC 20005
Ph. (202) 289-7661
Fax (202) 289-7724
nhelpdc@healthlaw.org

Issue Brief

Dental Coverage for Low-Income Pregnant Women

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Prepared by: Davida Silverman, Staff Attorney

Overview

Dental care is essential to prenatal and maternal health, but oral health coverage is often inaccessible for low-income women. This issue brief discusses the importance of comprehensive oral health care during pregnancy; explains the status of dental coverage for pregnant women under Medicaid, the Children's Health Insurance Program (CHIP), and the Affordable Care Act (ACA); and recommends strategies to expand dental coverage for low-income adult pregnant women.

Background

Pregnant women are especially vulnerable to developing oral health problems, which, if left untreated, can lead to serious complications and negatively affect fetal development. Yet pregnant women with lower household incomes are significantly less likely to seek dental care.[1] Further, women who have lower incomes, are enrolled in Medicaid, or belong to a racial or ethnic minority are half as likely to obtain dental care compared to higher-income, privately insured Caucasian women.[2]

This disparity in maternal dental health is due in part to the limited dental coverage for low-income adult pregnant women enrolled in public insurance programs. Although pregnant women enrolled in Medicaid and CHIP are entitled to "pregnancy-related services," dental care is not explicitly included as a pregnancy-related service, and federal Medicaid law leaves dental care for adult enrollees as a state option.[3] CHIP requires coverage of dental care for youth, including

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[1] MARY LYNN GAFFIELD ET AL., ORAL HEALTH DURING PREGNANCY: AN ANALYSIS OF INFORMATION COLLECTED BY THE PREGNANCY RISK ASSESSMENT MONITORING SYSTEM, 132 J. Am. Dental Assoc. 1009, 1013-15 (2001), *available at* http://jada.ada.org/content/132/7/1009.abstract; AMY BROWN, ACCESS TO ORAL HEALTH DURING THE PERINATAL PERIOD (2008), *available at* http://www.altarum.org/files/pub_resources/08_perinatal_oral_health.pdf.

[2] *Id*.

[3] 42 U.S.C. §§ 1396a(a)(10)(A), 1396d(a)(10); *but see* 42 U.S.C. §1396d(a)(4)(B) (requiring coverage of pediatric dental care); 42 C.F.R. § 440.210; CMS, STATE MEDICAID MANUAL § 4130. Qualified pregnant women (those pregnant women who would meet the eligibility criteria for Aid to Families with Dependent Children (AFDC) as it was in 1996) are entitled to full Medicaid coverage. 42 U.S.C. §§ 1396a(a)(10)(A)(i)(III), 1396d(n)(1); see also CMS, STATE MEDICAID MANUAL §§ 3303-3303.3. Coverage for pregnant women who have incomes at or below 133% FPL is limited to pregnancy-related services only, which includes prenatal, delivery, postpartum, family planning services, and other services related to conditions that may complicate the pregnancy. 42 U.S.C. §§ 1396a(a)(10), (VII) of the text following

pregnant youth, but not for adult women.[4] Moreover, the Affordable Care Act (ACA) provides some opportunities for adult dental coverage.[5] Yet state advocates will need to monitor and provide input throughout their state's ACA implementation process to ensure that health plans cover at least some dental care for adults.

Notably, Medicaid and CHIP must provide youth enrollees with dental services.[6] In addition, under the ACA, qualified health plans, Basic Health Program plans, and Medicaid benchmark coverage must cover pediatric dental care.[7] Still, advocates should monitor their state's Medicaid and CHIP programs and their state's health care reform implementation process to ensure youth enrollees receive dental services.

Discussion

Oral Health Care is Essential to Maintaining a Healthy Pregnancy

Oral diseases are among the most prevalent and preventable health conditions affecting women in the United States.[8] Pregnant women, in particular, are susceptible to oral diseases due to issues that may include fluctuating hormonal balances during pregnancy, an increased diet of sugary food from food cravings, vomiting during morning sickness, and the limited attention paid to oral health issues during pregnancy.[9] Tooth decay, for example, is often aggravated by hormonal imbalance and a reduced immune response. If left untreated, it can develop into serious conditions such as oral abscess (severe oral infection) or facial cellulitis (a painful bacterial skin infection).[10]

Medical research has also shown that untreated oral infection can adversely affect fetal and child development.[11] Pregnant women who have periodontitis (infection in the gums) are much more likely to have oral bacteria and inflammatory markers in amniotic fluid than pregnant women who did not suffer from periodontitis.[12] Periodontitis has also been linked to intrauterine

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subsection (G). Similarly, states that choose to cover pregnant women with incomes between 133 and 185% FPL may only cover pregnancy-related services and services needed to treat other conditions that may complicate pregnancy. The limit on services covered for these women is an exception to the general rule that the amount, duration, and scope of medical assistance under Medicaid must be equally available for mandatory and optional categorically needy enrollees. 42 U.S.C. §§ 1396a(a)(10)(VII) of the text following subsection (G), 1396a(a)(10)(B)(ii), 1396a(a)(10).

[4] *See* 42 U.S.C. § 1397cc(c)(5).

[5] Patient Protection & Affordable Care Act ("ACA") §§ 1301(a)(1)(B), 1302(b), 1311(d)(2)(B), 1331(b)(2), 2001(c)(3), 42 U.S.C. §§ 18021, 18022, 18031, 18051, 1396u-7(b)(5).

[6] 42 U.S.C. §§ 1396d(r)(3) (EPSDT coverage of dental services), 1397cc(c)(5) (CHIP-required coverage of dental services); CMS, Dear State Health Official (Oct. 7, 2009) (clarifying CHIP dental coverage for youth enrollees)

[7] ACA § 1302(b)(1)(J), 42 U.S.C. § 18022(b)(1)(J) (requiring coverage of pediatric services, including oral health care, in the "Essential Health Benefits").

[8] ADAM ALLSTON, IMPROVING WOMEN'S HEALTH AND PERINATAL OUTCOMES: THE IMPACT OF ORAL DISEASES 1 (2002), *available at* http://www.jhsph.edu/bin/u/x/oralbrief.pdf.

[9] HUGH SILK ET AL., ORAL HEALTH DURING PREGNANCY, 77 AM. FAMILY PHYSICIAN 1139, 1140 (2008), *available at* http://www.aafp.org/afp/2008/0415/p1139.html; AM. ACAD. OF PEDIATRIC DENTISTRY, GUIDELINE ON ORAL HEALTH CARE FOR THE PREGNANT ADOLESCENT, 31 CLINICAL GUIDELINES 108, 109 (2007), *available at* http://www.aapd.org/media/Policies_Guidelines/G_Pregnancy.pdf.

[10] ALLSTON, *supra* note 8, at 1-2; SILK, *supra* note 9.

[11] ALLSTON, *supra* note 8, at 5-6; SILK *supra* note 9, at 1142; AM. ACAD. OF PEDIATRIC DENTISTRY, *supra* note 9, at 109.

[12] SILK, *supra* note 9, at 1141.

growth restriction, lower placental blood flow, premature delivery, and low birth weight.[13] Even after birth, oral infection can be passed from mother to child through kissing, sharing utensils, and breastfeeding, placing children at risk of developing oral health problems.[14]

To mitigate oral health problems during pregnancy, the American Academy of Pediatric Dentistry, the California Dental Association, and the New York State Department of Health recommend that oral health providers assess pregnant women for dental hygiene habits and provide them with dental care throughout their pregnancies.[15] In addition, pregnant women who become aware of their oral health needs during pregnancy are more likely to establish improved lifelong oral care habits for themselves and their children.[16] Therefore, increasing pregnant women's access to oral health care may help reduce future occurrences of oral health conditions and prevent them for their children.

Dental Coverage under Medicaid, CHIP, and the ACA

a. Medicaid

Under federal Medicaid law, adult dental care is not a mandatory service.[17] As a result, many state Medicaid programs do not provide comprehensive dental coverage to adult enrollees.[18] For example, in 2010, three states did not provide adults with any dental coverage, and twelve states provided only emergency or acute dental care.[19]

However, the majority of states extend some form of dental coverage to at least one group of adult enrollees (such as pregnant women or individuals with disabilities).[20] Most often, states use a Medicaid § 1115 demonstration project to provide adult enrollees with oral health care

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[13] SILK, *supra* note 9, at 1141; AM. ACAD. OF PEDIATRIC DENTISTRY, *supra* note 9, at 109; ALLSTON, *supra* note 8, at 5.
[14] ALLSTON, *supra* note 8, at 5-6.
[15] AM. ACAD. OF PEDIATRIC DENTISTRY, *supra* note 9, at 110-11; CDA FOUNDATION, ORAL HEALTH DURING PREGNANCY AND EARLY CHILDHOOD: EVIDENCE-BASED GUIDELINES FOR HEALTH PROFESSIONALS 38 (2010), *available at* http://www.cdafoundation.org/library/docs/poh_guidelines.pdf; N.Y. DEP'T OF HEALTH, ORAL HEALTH CARE DURING PREGNANCY & EARLY CHILDHOOD PRACTICE GUIDELINES 26 (2006), available at http://www.health.ny.gov/publications/0824.pdf. Clinical guidelines advise that pregnant women receive oral health care at any point during pregnancy but recommend reserving more invasive treatment in the second trimester when there is less risk of causing discomfort to the pregnant women and harming the fetus.
[16] AM. ACAD. OF PEDIATRIC DENTISTRY, *supra* note 9, at 111; BROWN *supra* note 1, at 3.
[17] 42 U.S.C. §§ 1396d(a)(5)(B), 1396d(a)(10)(A); 42 C.F.R. §§ 440.100, 440.50(b) (medical and surgical dental services are mandatory services if the services when "furnished by a physician would be considered physician's services"); CMS, STATE MEDICAID MANUAL § 2700.2. There is an exception requiring coverage of "medical and surgical services" provided by a dentist if those services would be considered physicians' services. 42 U.S.C. § 1396d(a)(5)(B).
[18] KAISER FAMILY FOUNDATION, MEDICAID BENEFITS: ONLINE DATABASE, http://medicaidbenefits.kff.org/service.jsp?gr=off&nt=on&so=0&tg=0&yr=5&cat=6&sv=6; *see also* MARY MCGINN-SHAPIRO, MEDICAL COVERAGE OF ADULT DENTAL SERVICES (2008), *available at* http://nashp.org/sites/default/files/Adult%20Dental%20Monitor.pdf?q=files/Adult%20Dental%20Monitor.pdf.
[19] KAISER FAMILY FOUNDATION, *supra* note 18. Alabama, Delaware, and Tennessee do not provide dental coverage for adults. Arizona, Colorado, Florida, Georgia, Hawaii, Kansas, Maine, Maryland, Nevada, New Hampshire, Oklahoma, and West Virginia provide adult enrollees with dental coverage for emergency or acute dental problems.
[20] *See id.*

services. These demonstration projects provide states with flexibility to modify their Medicaid programs to meet their health care goals, such as expanding coverage for certain populations or services. For instance, Oregon provides dental coverage to the vast majority of enrollees through a § 1115 project.[21]

While the Medicaid Act does not explicitly require states to provide dental services to adult pregnant women enrollees, states, at a minimum, must cover pregnancy-related services.[22] Pregnancy-related services include services for the "treatment of conditions or complications that exist or are exacerbated because of the pregnancy" and services necessary for the "diagnosis, illnesses, or medical conditions which might threaten the carrying of the fetus to full term or the safe delivery of the fetus," such as prenatal, postnatal, and delivery services.[23] Accordingly, adult pregnant women enrolled in a Medicaid program that does not generally provide (or severely restricts) dental care for adults could still potentially receive necessary oral health care services as pregnancy-related services if the need for dental care impacts their pregnancies.

States also must cover Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services for youth under the age of 21, including pregnant adolescents.[24] Under the Medicaid Act, EPSDT services must include coverage of dental services.[25] This dental coverage must include, at a minimum, services for "relief of pain, restoration of teeth, and maintenance of dental health," and provide youth with dental care that meets the "reasonable standards of dental practice."[26]

Medicaid coverage has increased utilization rates of preventive and restorative dental services for children.[27] Nevertheless, Medicaid dental care utilization rates for youth are still low: only 38% of Medicaid eligible children received a dental service in 2008.[28] The data suggest that youth enrollees, despite their entitlement to dental services, encounter additional obstacles to obtaining oral health care.[29]

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[21] CMS, OR. HEALTH PLAN 2 RENEWAL 2010-2013 SPECIAL TERMS AND CONDITIONS, 13, 23, 24, 27 (2010), *available at* http://www.cms.gov/MedicaidStWaivProgDemoPGI/downloads/ORSTCs1115atoe022210.pdf. Populations eligible for comprehensive dental coverage include: pregnant women with incomes up to 185% FPL, children ages 0-5 with incomes up to 133% FPL or born to women with incomes up to 185% FPL, children ages 6-18 with incomes up to 100% FPL, mandatory covered foster care and substitute care children, mandatory covered AFDC section 1931 low-income families, and individuals who are elderly, blind, or have disabilities with incomes at or slightly above the SSI level of FPL. Starting in January 2010, Oregon limited dental coverage for non-pregnant adults ages 21 and older to diagnosis, prevention, and restoration services, excluding coverage for more advanced restoration and treatments, such as permanent crowns and a full set of dentures.

[22] 42 U.S.C. §§ 1396a(a)(10)(A), (C), 1396a(1), 1396d(n) (defining qualified pregnant woman); 42 C.F.R. § 440.210(a)(2) (allowing greater amount, duration and scope of pregnancy services); CMS, STATE MEDICAID MANUAL, §§ 3311.2, 3571.2, 4421; *see also* NHELP, AN ADVOCATE'S GUIDE TO REPRODUCTIVE HEALTH IN THE MEDICAID PROGRAM (2010).

[23] *See* CMS, STATE MEDICAID MANUAL § 4421(A)(3) (clarifying that states are not required to specify in their state plans the particular treatments or conditions that are covered as a service for a condition that may complicate pregnancy).

[24] 42 U.S.C. §§ 1396a(a)(10)(A), 1396a(a)(43), 1396d(a)(4)(B), 1396d(r).

[25] 42 U.S.C. § 1396d(r)(3).

[26] *Id*.

[27] CMS, MEDICAID/CHIP ORAL HEALTH SERVICES (2010), *available at* https://www.cms.gov/MedicaidDentalCoverage/Downloads/2011facts.pdf.

[28] *Id*.

[29] *Id*.

b. CHIP

The Children's Health Insurance Program provides health care coverage to low-income children who have incomes too high to qualify for Medicaid. CHIP was originally created to provide health care only for children, but since 2000, states have been permitted to extend CHIP coverage to adult pregnant women with the intention to increase access to prenatal care and, ultimately, improve child health outcomes.[30]

States can extend CHIP coverage to adult pregnant women through a waiver or one of two different CHIP state plan amendments (commonly referred to as the Unborn Child State Plan Amendment and the Pregnant Woman State Plan Amendment).[31] Each option provides adult pregnant women with a different benefits package, but all provide basic pregnancy-related services: prenatal care, labor and delivery, and post-partum care.[32] The Unborn Child State Plan Amendment, for example, provides adult pregnant women only with pregnancy-related services. Similar to Medicaid, pregnancy-related services could potentially include dental care that is essential to ensuring a healthy pregnancy.

However, under the Pregnant Woman State Plan Amendment, medical coverage for adult pregnant women is more comprehensive and tied to benchmark coverage (health benefits offered in another health insurance plan), benchmark-equivalent coverage, or Secretary-approved coverage.[33] For example, one of the benchmark coverage options is the standard Blue Cross/Blue Shield federal employee health benefits plan, which includes two oral evaluations and two dental cleanings per year, plus restorative treatments such as tooth extractions and fillings.[34] Accordingly, a state that adopts the Pregnant Woman State Plan Amendment and chooses the standard Blue Cross/Blue Shield federal employees health benefits plan as its benchmark would provide adult pregnant women with those dental services.

All youth enrolled in CHIP, including pregnant youth, are entitled to dental coverage. Under federal law, participating states must provide youth enrollees with "coverage of dental services necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions."[35] Additionally, states that operate separate CHIP programs may offer dental-only coverage to youth who have medical health insurance through

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[30] LAURA PARISI & RACHEL KLEIN, COVERING PREGNANT WOMEN: CHIPRA OFFERS A NEW OPTION 3 (2010), *available at* http://familiesusa2.org/assets/pdfs/chipra/Covering-Pregnant-Women.pdf.

[31] Eligibility for Prenatal Care and Other Health Services for Unborn Children, 42 C.F.R. § 457.10 (2002) (defining "child" to mean an individual under the age of 19 including the period from conception to birth so a state can elect to cover "unborn children"); 42 U.S.C. § 1397ll(a) (allowing states the option of amending its CHIP state plan to include adult pregnant women); CMS, Dear State Health Official (May 11, 2009), (Sept. 3, 2009); *see also* PARISI & KLEIN, *supra* note 30, at 3-5.

[32] *See id*.

[33] See 42 U.S.C. §§ 1397cc(c)(5) (mandating coverage of dental services for youth enrollees, but not explicitly extending such coverage to adult pregnant women); 1397cc(a) (outlining the scope of required CHIP-covered services); CMS, Dear State Health Official Letter (Sept. 3, 2009). Pennsylvania, Florida, and New York also have the option of offering CHIP enrollees with existing comprehensive state-based coverage. 42 U.S.C. § 1397cc(a)(3).

[34] 42 U.S.C. § 1397cc(b)(1); BLUE CROSS & BLUE SHIELD, BLUE CROSS & BLUE SHIELD SERVICE BENEFIT PLAN 2012 § 5(g), *available at* http://www.opm.gov/insure/health/planinfo/2012/brochures/71-005.pdf. There is a potential downside to adopting the federal health employees benefit plan as a benchmark, as federal employee health benefit plans are prohibited from covering abortion except when continuing the pregnancy endangers the life of the woman or when the pregnancy results from rape or incest.

[35] 42 U.S.C. § 1397cc(c)(5); *see also* Dear State Health Official (Oct. 7, 2009).

an employer but are still uninsured or underinsured with respect to dental coverage.[36] Note that CHIP dental coverage may differ slightly from state to state, depending on how a state operates its CHIP program. States that operate their CHIP programs through a Medicaid expansion program must provide youth enrollees with Medicaid EPSDT services.[37] Meanwhile, states that operate a separate CHIP program may offer youth enrollees a state-defined benefits package or offer coverage that is equivalent to a benchmark benefits package.[38] As with Medicaid, CHIP coverage has resulted in increased utilization of dental care, but it does not guarantee that all youth can easily obtain dental services.[39]

c. Affordable Care Act

The ACA does not explicitly require private insurance coverage of adult dental care, but the ACA creates opportunities for access. For example, the ACA permits state exchanges to offer stand-alone dental plans.[40] These plans have the potential to increase access for adult dental care for those who purchase them.

Adults who obtain insurance coverage through a state health insurance exchange ("Exchange") or a Basic Health Program may also obtain coverage for some dental care. Under the ACA, qualified health plans (those plans a state qualifies to sell through a state exchange), Basic Health Program plans (optional state-operated plans for individuals who have incomes between 133-200% FPL), and Medicaid benchmark coverage must include, at a minimum, essential health benefits (EHB).[41] In a recently released bulletin, the Department of Health and Human Services (DHHS) indicated that it may allow states to model their EHB package on an existing benchmark coverage package, including the federal employee health benefits plan, the state's employee health benefits plan, the largest non-Medicaid HMO in the state, or the state's largest small group insurance plan.[42]

Similar to CHIP, if a state chooses to model its EHB package on the federal employee health benefits, some dental services will very likely be covered in the EHB package. The three largest federal health employee health plans are Blue Cross Blue Shield (standard and basic coverage) and the Government Employees Health Association.[43] The Blue Cross Blue Shield basic

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[36] 42 U.S.C. § 1397jj(b)(5); see also Dear State Health Official (Oct. 7, 2009). The dental-only coverage must be consistent with or equal to the dental benefit plan provided to children who are eligible for full CHIP coverage.

[37] Dear State Health Official (Oct. 7, 2009) (clarifying that the EPSDT benefits satisfy the CHIP dental coverage requirement).

[38] 42 U.S.C. § 1397cc(c)(5); *see also* Dear State Health Official (Oct. 7, 2009).

[39] CTR. FOR MEDICAID, CHIP & SURVEY & CERTIFICATION, MEDICAID/CHIP ORAL HEALTH SERVICES, *available at* https://www.cms.gov/MedicaidDentalCoverage/Downloads/2011facts.pdf.

[40] ACA § 1311(d)(2)(B)(ii), 42 U.S.C. § 18031(d)(2)(B)(ii).

[41] ACA §§ 1301(a)(1)(B) (qualified health plans), 1311(a)(2)(B) (Basic Health Program plans), 2001(c)(3), 42 U.S.C. §§ 18021(a)(1)(B), 18051(a)(2)(B), 1396u-7(b)(5).

[42] DEP'T OF HEALTH & HUMAN SERVICES ("HHS"), ESSENTIAL HEALTH BENEFITS BULLETIN (Dec. 16, 2011), http://cciio.cms.gov/resources/files/Files2/12162011/essential_health_benefits_bulletin.pdf; *see also* HHS, FREQUENTLY ASKED QUESTIONS ON ESSENTIAL HEALTH BULLETIN (Feb. 17, 2012), http://cciio.cms.gov/resources/files/Files2/02172012/ehb-faq-508.pdf.

[43] HHS, ESSENTIAL HEALTH BENEFITS: ILLUSTRATIVE LIST OF THE LARGEST THREE SMALL GROUP PRODUCTS BY STATE, http://cciio.cms.gov/resources/files/Files2/01272012/top_three_plans_by_enrollment_508_20120125.pdf; BLUE CROSS & BLUE SHIELD SERVICE BENEFIT PLAN 2012 § 5(g), *supra* note 34; GOV'T EMPLOYEES HEALTH ASS'N, INC., GOV'T EMPLOYEES HEALTH ASS'N, INC. BENEFIT PLAN § 5(g) (2012), http://www.opm.gov/insure/health/planinfo/2012/brochures/71-006.pdf. There are potential downsides to

coverage includes two oral evaluations and two dental cleanings per year, and the standard coverage adds other preventive services and restorative treatments such as fluoride treatments, tooth extractions, and fillings.[44] Similarly, the Government Employees Health Association basic coverage plan includes diagnostic and preventive dental services (e.g., oral examinations, dental cleanings), fillings, and extractions.[45]

In addition, adults who become newly eligible for Medicaid coverage will be entitled to Medicaid benchmark coverage.[46] Depending on the benchmark selected, adult newly eligibles may obtain access to dental care services.

Youth should gain significant access to dental care because one of the categories of services in the EHB is pediatric care, including pediatric dental care.[47] Therefore, children and adolescents who gain health coverage through an Exchange or Basic Health Program will receive dental coverage.

Recommendations and Conclusion

Increasing access to dental coverage for low-income pregnant women and youth enrolled in Medicaid, CHIP, Exchanges, and Basic Health Programs will significantly improve the health and lives of pregnant women, pregnant youth, and their children. These programs offer advocates opportunities to expand oral health care services for adult pregnant women and to increase utilization of existing services by low-income pregnant youth. In states where comprehensive dental care is not provided to adult Medicaid and CHIP enrollees, state advocates are encouraged to call for a broader state definition of pregnancy-related services that incorporates necessary oral health care. Moreover, since coverage does not automatically guarantee access to services, advocates should continue to evaluate the existing dental coverage and dental provider networks to create strategies that address obstacles and barriers to dental services.

In addition, as states move forward with implementing the ACA, advocates have a significant opportunity to influence insurance coverage in their state Exchange. Advocates are encouraged to monitor their state's health reform implementation process and work to influence their state's definition of the EHB. The selection of a particular benchmark plan for the Exchange or for newly eligible enrollees in Medicaid or the adoption of the Basic Health Program could result in improved or expanded dental services for pregnant women and youth, and in particular low-income pregnant women who may not have any other options for dental care.

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adopting the federal health employees benefit plan as a benchmark for the EHB package. The federal employee health benefit plan may not include state-mandated benefits (under the ACA, states must defray the costs of those mandated benefits in excess of the EHB package), and the federal employee health benefit plans are prohibited from covering abortion except when continuing the pregnancy endangers the life of the woman or when the pregnancy results from rape or incest.

[44] BLUE CROSS & BLUE SHIELD § 5(g), *supra* note 34.

[45] GOV'T EMPLOYEES HEALTH ASS'N, INC. § 5(g), *supra* note 43.

[46] ACA § 2001(a)(2)(A), 42 U.S.C. § 1396a(k)(1). The ACA expands Medicaid eligibility to individuals with incomes at or below 133% FPL who do not fit within a traditional category of Medicaid eligibility. These "newly eligible" individuals are provided only benchmark coverage, not traditional Medicaid coverage.

[47] 42 U.S.C. § 18022(b)(1)(J).