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Administration Defines Benefits That Must Be Offered Under the Health Law

By ROBERT PEAR

WASHINGTON — The Obama administration took a big step on Tuesday to carry out the new health care law by defining "essential health benefits" that must be offered to most Americans and by allowing employers to offer much bigger financial rewards to employees who quit smoking or adopt other healthy behaviors.

The proposed rules, issued more than two and a half years after President Obama signed the Affordable Care Act, had been delayed as the administration tried to avoid stirring criticism from lobbyists and interest groups in the final weeks of the presidential campaign.

Insurance companies are rushing to devise health benefit plans that comply with the federal standards. Starting in October, people can enroll in the new plans, for coverage that begins on Jan. 1, 2014.

The rules translate the broad promises of the 2010 law into detailed standards that can be enforced by state and federal officials. Under the rules, insurers cannot deny coverage or charge higher premiums to people because they are sick or have been ill. They also cannot charge women more than men, as many now do.

"Thanks to the health care law, no one will be discriminated against because of a pre-existing condition," said Kathleen Sebelius, the secretary of health and human services, who issued the rules with Phyllis C. Borzi, an assistant secretary of labor, and Steven T. Miller, the acting commissioner of the Internal Revenue Service.

The rules lay out 10 broad categories of essential health benefits, but allow each state to specify the benefits within those categories, at least for 2014 and 2015. Thus, the required benefits will vary from state to state, contrary to what many members of Congress had assumed when the law was adopted.

Most states are defining essential benefits to be those provided by the largest health plan in the state's small-group insurance market. However, to comply with the law, federal officials said, insurers must provide certain additional benefits, including dental care and vision services for children, treatment of mental health and drug abuse problems, and “habilitative services” for people with conditions like autism or cerebral palsy.

The proposed rules go beyond informal guidance issued by the administration last December, most notably by requiring more comprehensive coverage of prescription drugs.

Administration officials originally suggested that insurers would have to cover at least one drug in each therapeutic class. The new rules will, in many states, require insurers to cover two or more drugs in each class.

Stephen E. Finan, a health economist at the lobbying arm of the American Cancer Society, said, “The proposed rule is an improvement over the bulletin issued last year, but still does not guarantee that cancer patients will have access to all the major cancer drugs they need.”

The rules limit insurers’ ability to charge higher premiums based on age. Under the rules, the rate for a 63-year-old could not be more than three times the rate for a 21-year-old. Many states now allow ratios of five to one or more, the administration said.

The White House said it wanted to “minimize disruption of rates in the current market.” But the administration decided not to allow a transition to the new age-rating standards, and insurers said that premiums could increase substantially for young adults.

Karen M. Ignagni, the president of America’s Health Insurance Plans, a trade group, said the White House needed to focus on the affordability of coverage for consumers and employers.

In the 2008 campaign, Mr. Obama said he would lower annual premiums by $2,500 per family by the end of his first term. But after a quick look at the proposed rules on Tuesday, Ms. Ignagni said she was concerned that “many families and small businesses will be required to purchase coverage that is more costly than they have today.”

The rules also give employers new freedom to reward employees who participate in workplace wellness programs intended to help them lower blood pressure, lose weight or reduce cholesterol levels. The maximum permissible reward would be increased to 30 percent of the cost of coverage, from the current 20 percent.

The rules would further increase the maximum reward to 50 percent for wellness programs intended to prevent or reduce tobacco use.

Rewards could amount to several thousand dollars a year, officials said, because total premiums in employer-sponsored health plans now average more than $5,600 a year for individual coverage and nearly $16,000 for family coverage.

The rules include several provisions to prevent discrimination against employees. Employers must, for example, allow workers to qualify for rewards in other ways if it would be “unreasonably difficult” for them to meet a particular standard. For example, if an employee does not meet a standard for cholesterol, the employee might qualify for a reward by following a nurse’s recommendations for diet and exercise.

The new law seeks to protect consumers by limiting what they must pay for health care before insurers begin to pay. In the small-group market, these deductibles are limited to $2,000 for individuals and $4,000 for family coverage. However, the administration said that insurers could charge higher deductibles, if necessary, to hold down the overall value and cost of a plan, reflected in the premiums.

Cindy Mann, the top Medicaid official at the Department of Health and Human Services, said many of the new requirements for essential benefits would apply to private plans that insure low-income people on Medicaid.

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