

Last week, HHS published a final rule on the benefits that creates a separate out-of-pocket limit for stand-alone dental plans, but only specifies that the limit be “reasonable.” There are two huge problems with this approach. First, an additional out-of-pocket limit will make the benefit far less affordable for many families. It was not what Congress intended. The whole point of adding pediatric dental benefits to the essential health benefits package was to make certain that oral health not be considered separate from overall health.

We have been here before. This approach is similar to policies that were set decades ago for mental health services—separate policies to cover mental health treatment, separate limits on coverage, and separate copays. Mental health was treated as second-class health care. We know now that this was an injustice. It was wrong to treat those services, and the patients who used them, as second-class. Many of my colleagues were here in Congress when we fought the battles for mental health parity. It was a difficult battle, but we won. It seems to me that this is what we are doing now with dental care, rather than treating it as part of the Essential Benefits Package, which was our intent in the Affordable Care Act.

Section 1402(b) of the law also establishes an out-of-pocket limit for all families and lowers that limit for families with incomes under 400% of the Federal poverty level. By creating a separate limit, HHS is reducing the number of families who will be able to afford dental coverage for their children.

Second, the rule has left the determination of what is a “reasonable” out-of-pocket limit to each State. With pressure from insurance companies, a State could decide to provide an out-of-pocket limit of \$1,000 or more per child, which could more than double out-of-pocket costs for a family with five children.

In the Federally run exchanges, HHS has the authority to set a “reasonable” out-of-pocket limit. Last Thursday, in a Finance Committee hearing, I asked Jon Blum, the CMS Deputy Administrator, about the idea of segregating dental benefits from health benefits and increasing cost-sharing. This is what he said: “Well I think one of the lessons that we learned within the Medicare program is that when the care is siloed, our benefits aren’t fully integrated. That can often lead to worse total health care consequences. I can pledge to get back to you with direct answers to your questions. But I do agree with your general principle that when benefit design is broken up and care is not coordinated, that it can often lead to bad quality of care.”

Later that day, I spoke with CMS acting administrator Marilyn Tavenner. I asked her to take into account the affordability of a plan that had separate, high cost-sharing, and she agreed to consider my views. Less

than 24 hours later, CMS released a proposed “guidance” to insurers, setting a maximum out-of-pocket limit of \$1,000. When I contacted HHS to ask whether this was a per-family or per-child limit, the expert in charge of the rule was unable to tell me. They did not know whether this meant extra costs per year of \$1,000 or \$5,000 for a family with five children. This tells me that the affordability of care was a secondary consideration when this final rule was written.

There are still millions of American children without coverage for dental care. If we are to make real progress in improving the health of Americans, we cannot afford to continue giving oral health care second-class treatment.

The question now is whether the guidance to plans will go forward. It is contrary to Congressional intent and contrary to the best interests of American families to allow it to stand. On this sixth anniversary of the death of Deamonte Driver, let’s pledge to do better for our children.

Madam President, I call to the attention of my colleagues a colloquy between Senators Bingaman, STABENOW, and BAUCUS in the RECORD of September 26, 2011, at page S5973.

With that, I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2 p.m. and reassembled when called to order by the Presiding Officer (Ms. HETTKAMP).

#### EXECUTIVE SESSION

#### NOMINATION OF JOHN OWEN BRENNAN TO BE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY—Continued

The PRESIDING OFFICER. The time until 3 p.m. is equally divided.

The Senator from California.

Mrs. FEINSTEIN. Madam President, it is my understanding that this is an appropriate time for me, as chairman of the Intelligence Committee, to speak on the nomination of John Brennan for Director of the CIA.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. FEINSTEIN. Madam President, as a kind of predicate to this nomination, we have heard a 13-hour filibuster from Senators who desire an answer to the question that was proffered by Senator PAUL. I have that answer. It is dated March 7. It is a letter from the Attorney General Eric Holder. It is to Senator RAND PAUL. This is what it says:

It has come to my attention that you have asked an additional question. “Does the President have the authority to use a weaponized drone to kill an American not engaged in combat on American soil?”

The answer to that question is no.

I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ATTORNEY GENERAL,  
Washington, DC, March 7, 2013.

Hon. RAND PAUL,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR PAUL: It has come to my attention that you have now asked an additional question: “Does the President have the authority to use a weaponized drone to kill an American not engaged in combat on American soil?” The answer to that question is no.

Sincerely,

ERIC H. HOLDER, JR.

Mrs. FEINSTEIN. So, hopefully, the need to continue any of this will be vitiated, and we will be able to proceed with a vote. It is my understanding that I have a half hour on behalf of the majority of the Intelligence Committee to make a statement in support of Mr. Brennan.

Mr. Brennan’s nomination was reported out of the Senate Intelligence Committee on Tuesday by a strong bipartisan vote of 12 to 3. I look forward to an equally strong vote by the Senate later today.

Let me begin with his qualifications, which are impressive and unquestioned. John Brennan began his career as an intelligence officer with the CIA in 1980. He worked as a CIA officer for 25 years in a variety of capacities, including as an analyst in the Office of Near Eastern and South Asian Analysis and as a top analyst in the CIA Counterterrorism Center from 1990 to 1992, both areas that remain very much a focus of the CIA today.

He was the daily intelligence briefer at the White House and served as George Tenet’s executive assistant. Despite his background as an analyst, Mr. Brennan was selected to serve as Chief of Station, a post generally filled by a CIA operations officer. He served in Saudi Arabia, one of the most important and complex assignments, and then returned to Washington as then-DCI Tenet’s Chief of Staff and the Deputy Executive Director of the CIA.

Mr. Brennan then served as the head of the Terrorist Threat Interrogation Center, the predecessor organization to the National Counterterrorism Center (NCTC), where he also served as the Interim Director. After a short stint in the private sector, he returned to be President Obama’s top counterterrorism and homeland security adviser. In that capacity, he has been involved in handling every major national and homeland security issue we have faced since 2009.

He has been involved in counterterrorism successes, including this administration’s efforts to bring Osama bin Laden to justice and at least 105 arrests of terrorist operatives and supporters in the United States since 2009. He also helped implement the lessons learned from Umar Farouq Abdul-