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April 10, 2023

The Honorable Vicki Schmidt
Commissioner of Insurance
Kansas Insurance Department
1300 SW Arrowhead Rd.
Topeka, Kansas 66604

Dear Commissioner Schmidt:

Blue Cross and Blue Shield of Kansas (BCBSKS) appreciates the opportunity to provide comments regarding a potential update to Kansas’ Essential Health Benefits (EHB) Benchmark Plan, as issued on March 3, 2023.

BCBSKS is a locally operated mutual insurance company that operates as a not-for-profit with more than 1,600 Kansas-based employees. We serve approximately 930,000 Kansans in 103 of Kansas’ 105 counties (excluding Johnson and Wyandotte counties). BCBSKS maintains offices in 11 communities around the state, with corporate headquarters in Topeka.

BCBSKS has long advocated for commonsense solutions to ensure a robust, competitive private marketplace – one that offers individuals a broad range of choices to meet Kansans’ needs at an affordable price. However, we are concerned that the basis for expansion of Kansas’ EHB Benchmark Plan as proposed is modeled after states that share few similarities with Kansas. These proposed additions do not appropriately account for market forces specific to our state and will hamper our ability to tailor benefit design options that affordably fit our population’s needs.

Our initial analysis projects the following per member per month premium increases to cover the proposed expansion of EHBs:

	Hearing Aids PMPM	Bariatric PMPM	ABA PMPM
Individual	\$ 1.23	\$ 2.16	\$ 0.42
Small Group	\$ 1.23	\$ 2.16	\$ 0.34

Bariatric Surgery

Kansas is not an outlier in excluding bariatric surgery from essential health benefits. The majority of states do not cover bariatric surgery as part of its base benchmark plan. BCBSKS studies market demand for bariatric services regularly as part of our ongoing benefit design process. As of March 2023, our most recent analysis found that only eight BCBSKS groups provide bariatric services, with four groups

providing obesity drug coverage and/or counseling for weight management. We also found a low demand for these services on the part of group decision makers.

We disagree with Lewis and Ellis' assertion that bariatric surgery no longer carries substantial risk. Although the procedure is safe and effective in many cases, multiple studies (even studies that support use of bariatric surgery overall) note that the procedure comes with standard surgical risks/potential complications, the need for lifelong nutritional supplementation to prevent or treat dietary deficiencies, implications on bone health, and a possibility of re-surgery. Some studies also point to limited long-term effectiveness and higher-than-expected complication rates. We believe that there are more appropriate and affordable interventions for weight management as part of EHB benefits – particularly for children.

Over-the-Counter Hearing Aids

Again, Kansas is not an outlier in excluding over-the-counter (OTC) hearing aids as a benefit in its benchmark plan. In fact, we are deeply concerned that Kansas will become the outlier if this addition is approved, as we would be the only state in the nation to do so.

There are many reasons why no other state covers OTC hearing aids as an essential health benefit -- the most important being patient safety. Prescription and OTC hearing aids share some features, but they are quite different devices with significant variation in levels of customization, functionality, and computer processing capabilities. OTC hearing aids are meant to assist adults with a perceived mild to moderate hearing loss (the Food and Drug Administration (FDA) specifically prohibits OTC hearing aids for individuals under age 18). More severe hearing loss or child hearing loss requires customized hearing aids fit by an audiologist. Most people cannot accurately self-diagnose their own degree or type of hearing loss and cannot accurately determine which type of hearing aid is most appropriate. A diagnostic hearing test administered by a licensed medical professional is critical. It is inappropriate and unsafe to lump these two devices together as an essential health benefit with no age restrictions.

It is also worth noting that the OTC hearing aid market is considered relatively “new.” The FDA only began approving OTC hearing aids in October 2022 and it was considered a landmark regulatory change. Although we appreciate FDA's goal of expanding access to hearing aids, mandating insurance coverage of such costly devices so quickly after their entrance to the market raises numerous concerns for health plans. In addition to administrative questions, coverage of OTC hearing aids would present undeniable opportunities for fraud or misuse (e.g., if a consumer returns OTC hearing aids after being reimbursed for purchase by the health plan).

Additionally, according to Lewis and Ellis' March 2023 presentation, hearing aids as an essential health benefit cannot include reasonable dollar limits or frequency limits. This runs counter to durable medical equipment (DME) limits that are commonplace in the Affordable Care Act (ACA) market.

Closing Comments

BCBSKS would support a modest expansion of Kansas' EHB benefits – particularly the coverage of applied behavioral analysis (ABA) therapy for autism spectrum disorders and some medications and/or counseling to treat obesity. However, we urge the Department to delay expansion of EHB's as proposed

until the potential impact on overall affordability can be more accurately assessed. As proposed, these expansions could significantly increase health insurance premiums for thousands of Kansans and put premiums for benefits that Kansans strongly care about (like hospitalization, prescriptions drugs, etc.) out of reach. Ultimately, this will cause more people to purchase health plans that are unregulated or omit key benefits because they are at a much lower price point than ACA-compliant health plans.

Blue Cross and Blue Shield of Kansas remains committed to work with you to ensure the final recommendations for Kansas' benchmark plan do not undermine years of work to stabilize Kansas' individual and small group health plan markets and provide high-quality, affordable options for all Kansas consumers.

Sincerely,

A handwritten signature in black ink that reads "Sunee Mickle". The signature is written in a cursive, flowing style.

Sunee N. Mickle
Vice President, Government and Community Relations
Blue Cross and Blue Shield of Kansas