Summary of Obesity Care Continuum (OCC) Advocacy Efforts

The leading obesity advocate groups founded the Obesity Care Continuum or “OCC” in 2010 to better influence the healthcare reform debate and its impact on those affected by overweight and obesity. Currently, the OCC is composed of the Obesity Action Coalition (OAC), the Obesity Society (TOS), the Academy of Nutrition and Dietetics (AND), the American Society for Metabolic and Bariatric Surgery (ASMBS) and the American Society for Bariatric Physicians (ASBP).

The purpose of the OCC is to pool the resources of its member groups and better coordinate Federal and state advocacy efforts to secure access to, and coverage of, the continuum of care surrounding the treatment of overweight and obesity. With a combined membership of more than 125,000 patient and healthcare professional advocates, the OCC covers the full scope from nutrition, exercise and weight management through pharmacotherapy to device and surgery. The coalition is a major force in the continuing debate regarding the critical need to both prevent and treat the disease of obesity.

Advocacy Issues

Essential Health Benefits Package
The primary focus of the advocacy activities of the OCC continue to be on the Obama Administration and the Department of Health and Human Services (HHS) to include coverage for obesity treatment services in the essential health benefits (EHB) package for the new health Marketplace plans being developed at the state level. More than 300 congressional visits have taken place since the passage of healthcare reform in early 2010 in an effort to advocate for this goal. In addition, there have been multiple visits with President Obama’s domestic policy staff at the White House and staff within the Offices of the HHS Secretary and U.S. Surgeon General highlighting the need for coverage of obesity treatment services under healthcare reform.

The OCC also ensured that an obesity advocate participated in every single public “listening session” that the Department of Health and Human Services held - both at the national and regional levels during late 2011 to help HHS better understand the concerns of stakeholder groups regarding essential health benefits. At each of these sessions, obesity advocates made oral comments stressing the essential and medically necessary nature of obesity treatment services. Finally, the OCC secured the support of 55 House Members and three U.S. Senators who requested that HHS include obesity coverage within the EHB package.

At the state level, the Obesity Care Continuum actively participated in the public review process associated with states selecting their benchmark health plan to determine the scope of each state’s EHB package. During 2012, the OCC provided formal guidance to virtually every state that chose to formally establish a state-administered health Marketplace (AZ, CA, CO, CT, DC, IL, KS, KY, MD, NE, NV, NM, NY, OR, RI, SC, TN, UT, VT and WA). Unfortunately, a survey of obesity treatment services coverage revealed that only 22 states chose an essential health benefit benchmark plan covering bariatric surgery and only five states chose to cover weight-loss programs.

Summary of Coverage
Twenty-two states chose benchmark plans that cover bariatric surgery (AZ, CA, DE, HI, IL, IA, ME, MD, NV, NH, NJ, NM, NY, NC, ND, MA, MI, RI, SD, VT, WV and WY).
Five states chose benchmark plans that cover weight-loss programs (CA, DC, NM, MA and MI).

Twenty-eight states chose benchmark plans that cover neither bariatric surgery nor weight-loss programs (AL, AK, AR, CO, CT, FL, GA, ID, IN, KS, KY, LA, MN, MS, MO, MT, NE, OH, OK, OR, PA, SC, TN, TX, UT, VA, WA, WI)

Advocacy efforts to influence the initial regulatory phase of implementing health reform culminated in 11 national healthcare organizations submitting a joint comment letter in late 2012 in response to proposed regulations issued by HHS on essential health benefits. Specifically, these groups asked whether or not HHS defines management of obesity and metabolic disorders as part of “chronic disease management” or, at a minimum, a serious medical condition worthy of protection under the Department’s regulations regarding pre-existing conditions or discriminatory benefit designs. Unfortunately, HHS did not address these concerns in the final regulations, and obesity advocates are still attempting to get further clarification from HHS.

The large coalition that issued this request for clarification by HHS regarding obesity treatment’s role as an essential health benefit, included: the American Society for Metabolic and Bariatric Surgery, American Society of Bariatric Physicians, American Association of Clinical Endocrinologists, American Institute for Cancer Research, Academy of Nutrition and Dietetics, Campaign to End Obesity Action Fund, Mental Health America, National Alliance for Mental Illness, National Lipid Association, Obesity Action Coalition, and The Obesity Society.

In response to HHS’s failure to address the concerns of the obesity community in the final regulations, the OCC secured a May 16, 2013 letter from Representatives Lou Barletta (R-PA) and Allyson Schwartz (D-PA) to HHS requesting that the Department provide the obesity community with a response to their specific questions about obesity being a chronic disease. Unfortunately, in its June 24, 2013 response letter, HHS stated that the Department did in fact respond, in the aggregate, to the questions raised by the obesity community. Unfortunately, the HHS response letter did not include the specific language from the final regulations that respond to the questions raised by the obesity community. To further press HHS for clarity surrounding obesity treatment issues in the final EHB regulations, the obesity community persuaded Senator Barbara Mikulski (D-MD) to send a follow-up letter to HHS -- again asking for specific language that addresses the concerns of the obesity community.
OCC members also reached out on numerous occasions to national healthcare professional and patient organizations – encouraging these groups to partner for treating obesity. These efforts led to a number of collaborative initiatives promoting coverage of obesity treatment services. For example, a broad coalition of these groups added their support to encourage HHS to provide coverage for obesity treatment services in a September 27, 2011 letter to the Department. Cosigners on the letter included the American Association of Orthopaedic Surgeons, the American College of Surgeons, the American Osteopathic Association, the Heart Failure Society of America, the American Society of Anesthesiologists, and the Arthritis Foundation.

The OCC also secured the support of more than 45 healthcare and patient organizations on an OAC-sponsored full page advertisement in the May 7, 2012 edition of the Capitol Hill Newspaper Politico. The ad called on all Americans to contact their legislators on Capitol Hill and urge them to “address weight as a matter of health” because “obesity is a serious medical condition and weight matters. Numerous other conditions, both physical and psychosocial, are being linked to excess weight on a daily basis. Simply put, weight and health go hand-in-hand. Therefore, policymakers must treat obesity with the respect, urgency, and action it deserves!”

Supporting groups on the OAC call to action included the leading groups in the obesity community, as well as other major healthcare provider and patient groups such as the Arthritis Foundation, American Academy of Pediatrics, American Cancer Society Cancer Action Network, Trust for America’s Health, American College of Cardiology, Mental Health America, and the National Women’s Health Resource Center.

LATEST DEVELOPMENTS

OPM 2015 Multi-State Plan Issuer Letter Supports Obesity Treatment Coverage

On February 4, 2014, the Office of Personnel Management (OPM) issued its 2015 Multi-State Plan Issuer letter, which contained the following language:

“The United States Preventive Services Task Force recommends screening adults and children for obesity and providing referrals for behavioral change interventions where applicable, and issuers are required to cover these services without cost-sharing. We appreciate the efforts of issuers to ensure these services are available. Given the impact of obesity on individual and population health, we also encourage issuers to provide enrollees with access to a full range of weight reduction treatment interventions. Issuers that specifically exclude coverage for weight reduction and/or management interventions should review the clinical rationale for those exclusions and document how enrollees will receive appropriate care to achieve and sustain a healthy weight.”


OPM Prohibits FEHB Plans from Excluding Obesity Treatment Services Beginning in 2015

On March 20, 2014, the Office of Personnel Management (OPM) issued a letter to all Federal Employee Health Benefit (FEHB) Program Carriers regarding coverage of FDA-approved obesity drugs and bariatric surgery. In the Carrier letter, OPM stated that:

"It has come to our attention that many FEHB carriers exclude coverage of weight loss medications. Accordingly, we want to clarify that excluding weight loss drugs from FEHB coverage on the basis that obesity is a "lifestyle" condition and not a medical one or that obesity treatment is "cosmetic"- is not
permissible. In addition, there is no prohibition for carriers to extend coverage to this class of prescription drugs, provided that appropriate safeguards are implemented concurrently to ensure safe and effective use." OPM's policy clarification on obesity treatment will affect all FEHB plans beginning January 1, 2015.

The Obesity Care Continuum (OCC) reached out to all its health policy contacts in Congress and the Department of Health and Human Services to apprise them of the OPM coverage guidance. As part of this outreach, OCC applauded OPM for understanding that treating obesity is a medical necessity and that all public and private health plans need to follow suit and embrace coverage of evidence-based obesity treatment avenues such as intensive behavioral therapy, pharmacotherapy and bariatric surgery so that those affected may have access to the full continuum of care for this complex and chronic disease.


OCC Leaders Press HHS on Inconsistent Coverage of Bariatric Surgery in State Health Exchange Plans

On March 27, 2014, OCC leaders participated in a meeting with key staff from the HHS Office of Health Reform and CMS Center for Consumer Information and Insurance Oversight (CCIIO) to discuss issues raised by the American Society for Metabolic and Bariatric Surgery regarding inconsistent coverage of bariatric surgery in a number of states across the country.

Specifically, ASMBS highlighted 4 states (CA, MI, NM and NY) where some qualified health plans (QHPs) in those states are excluding or limiting coverage for bariatric surgery -- despite those states having essential health benefit benchmark plan submissions that include coverage for bariatric surgery. HHS staff continued to be concerned about the issue but declined to say whether the Department would take action to remedy the problem. Staff encouraged advocates and patients to appeal these inconsistencies through either the federal healthcare hotline in federally-facilitated exchanges or through State Insurance Commissioners for state-facilitated exchanges.

OCC Leaders meet with HHS Office of Civil Rights

On June 11, 2014, Obesity Action Coalition (OAC) Board Chair Ted Kyle, Board member Dr. Walt Medlin, and OAC President & CEO Joe Nadglowski met with Deputy Director Robinsue Frohboese and other key staff in the Department of Health and Human Services (HHS) Office of Civil Rights (OCR) to discuss potential civil rights violations that may be occurring within state health marketplace plans. At issue is how Section 1557 -- the civil rights section of the Affordable Care Act (ACA) could protect those affected by obesity.

Section 1557 prohibits discrimination on the grounds of race, color, national origin, sex, age, or disability under “any health program or activity, any part of which is receiving Federal financial assistance ... or under any program or activity that is administered by an Executive agency or any entity established under [Title I of ACA]....” Section 1557 is consistent with and promotes several of the Obama Administration’s key initiatives that advance prevention and wellness, reduce health disparities, and improve access to health care services. To ensure equal access to health care, Section 1557 also applies civil rights protections to the newly created Health Insurance Marketplaces established under the Affordable Care Act.

OCC leaders educated OCR staff about the many coverage issues that the Obesity Care Continuum believe are discriminatory such as prohibitive patient cost sharing and one procedure per lifetime limits
OCR staff was very appreciative with OCC bringing these issues to their attention. However, given that OCR is currently crafting additional regulatory guidance surrounding Section 1557, they were precluded from discussing any possible patient protections that may be included in the new guidance, which is expected to be released later this year.