



**Michigan's 2022 Essential Health Benefits Benchmark Plan:  
Executive Report**

**May 4, 2020**

## **TABLE OF CONTENTS**

EXECUTIVE SUMMARY.....	1
OVERVIEW OF MICHIGAN'S EHB-BENCHMARK PLAN SELECTION .....	2
THE EHB-BENCHMARK PLAN SELECTION FOR PLAN YEAR 2022.....	4
PUBLIC COMMENTS .....	6
DIFS' RECOMMENDATIONS .....	7

**Executive Summary**

The Michigan Department of Insurance and Financial Services (DIFS) presents this Executive Report on Michigan's Essential Health Benefits (EHB) benchmark plan for the 2022 plan year. This report contains an overview of Michigan's EHB-benchmark plan selection process, both historically and for the 2022 plan year, and the EHB requirements, primarily pursuant to 45 CFR 156.111.

Similar to prior years, the basis for Michigan's EHB-benchmark plan for plan year 2022 is the Priority Health HMO plan, as supplemented. DIFS continues to believe that this plan provides comprehensive coverage at affordable rates and maintaining this plan as the basis for Michigan's EHB-benchmark plan provides continuity in the individual and small group markets. However, for plan year 2022, DIFS is utilizing new flexibility established under applicable federal regulations to modify Michigan's EHB-benchmark plan to include the following two additional benefits:

- Coverage of at least one intranasal spray opioid reversal agent when prescriptions of opioids are dosages of 50MME or higher.
- Removal of barriers to prescribing Buprenorphine or generic equivalent products for medication-assisted treatment of opioid use disorder.

As suggested by the Centers for Medicare and Medicaid Services (CMS) in promulgating the applicable federal regulations, DIFS believes that including these two additional benefits in Michigan's EHB-benchmark plan for plan year 2022 is an important step in addressing this State's opioid crisis, while retaining a cost-effective benchmark plan.

In developing the 2022 EHB-benchmark plan, DIFS adhered to all federal requirements, primarily established under 45 CFR 156.111, including having an actuarial analysis conducted, providing a meaningful period for public comment, and submitting the documentation required by CMS.

*Next: Overview of Michigan's EHB-benchmark Plan Selection →*

**Overview of Michigan's EHB-benchmark Plan Selection**

The Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, requires that all non-grandfathered health insurance plans offered in the individual and small group markets, both on and off the Exchange, provide benefits in the ten required EHB categories.<sup>1</sup> A State's EHB-benchmark plan establishes a standardized set of EHBs based on the ten EHB categories.<sup>2</sup>

Beginning 2014, any small group or individual market plan offered in the State must be "substantially equal" to the EHB-benchmark plan in both the scope of benefits offered and any limitations on those benefits.<sup>3</sup> While large group plans do not have to cover the EHBs, they cannot impose dollar limits (annual or lifetime) on any EHBs that they do cover.

In 2012, DIFS selected the Priority Health HMO plan, as supplemented by the MICHild dental program (for pediatric dental coverage) and the Federal Employee Dental and Vision Insurance Program BlueVision, High Option, plan (for pediatric vision coverage), for use as the EHB-benchmark plan for plan years 2014, 2015, and 2016. In 2014, the Department of Health and Human Services (HHS) notified states that they would be required to choose a new benchmark plan for plan year 2017. DIFS re-assessed its selection for plan year 2017 and opted to retain a substantially similar EHB-benchmark plan to promote continuity in the individual and small group markets.<sup>4</sup>

Beginning plan year 2020, under regulations included in the Final 2019 Health and Human Services (HHS) Notice of Benefits and Payment Parameter provides States greater flexibility by establishing new standards for States to modify their EHB-benchmark plans.<sup>5</sup> Those options include:

- Option 1: Selecting the EHB-benchmark plan that another State used for the 2017 plan year.
- Option 2: Replacing one or more categories of EHBs in the State's EHB-benchmark plan used for the 2017 plan year with the same category or categories of EHB from the EHB-benchmark plan that another State used for the 2017 plan year.
- Option 3: Otherwise selecting a set of benefits that would become the State's EHB-benchmark plan.<sup>6</sup>

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<sup>1</sup> 42 USC 18022(b)(1)(A) to (J).

<sup>2</sup> 45 CFR 156.100; 45 CFR 156.110; 45 CFR 156.20. A State's EHB-benchmark plan is based on the State's selected "base-benchmark plan," as supplemented pursuant to 45 CFR 156.110.

<sup>3</sup> 45 CFR 156.115.

<sup>4</sup> Information regarding Michigan's currently effective EHB-benchmark plan is available at: [https://www.michigan.gov/difs/0,5269,7-303-13047\\_13049\\_61590-358198--,00.html](https://www.michigan.gov/difs/0,5269,7-303-13047_13049_61590-358198--,00.html)

<sup>5</sup> See 83 Fed. Reg. 16930, 17068 (April 17, 2018). These regulations are promulgated under 45 CFR 156.111.

<sup>6</sup> 45 CFR 156.111(a).

A State's EHB-benchmark plan must continue to provide coverage in the ten required EHB categories listed under 45 CFR 156.110(a).<sup>7</sup> Additionally, a State's EHB-benchmark plan must meet all the following requirements relating to the scope of benefits covered:

- Provide a scope of benefits equal to, or greater than, to the extent any supplementation is required within each EHB category, the scope of benefits provided under a "typical employer plan," as defined under 45 CFR 156.111(b)(2)(i).
- Not exceed the generosity of the most generous among a set of comparison plans, as listed under 45 CFR 156.111(b)(2)(ii).<sup>8</sup>
- Not have benefits unduly weighted toward any of the ten EHB categories.<sup>9</sup>
- Provide benefits for diverse segments of the population, including women, children, persons with disabilities, and other groups.<sup>10</sup>
- Not include discriminatory benefit designs that contravene the non-discrimination standards defined under 45 CFR 156.125.<sup>11</sup>

*Next: The EHB-Benchmark Plan Selection Process for Plan Year 2022 →*

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<sup>7</sup> 45 CFR 156.111(b)(1).

<sup>8</sup> The comparison plans include: (1) the State's EHB-benchmark plan for plan year 2017, and (2) any of the State's base-benchmark plan options, as supplemented, for plan year 2017 described in 45 CFR 156.100(a)(1), i.e., relating to the State's largest health plans in the small group market.

<sup>9</sup> 45 CFR 156.111(b)(2)(iii).

<sup>10</sup> 45 CFR 156.111(b)(2)(iv).

<sup>11</sup> 45 CFR 156.111(b)(2)(v).

**The EHB-Benchmark Plan Selection Process for Plan Year 2022**

In selecting a new EHB-benchmark plan, CMS encouraged States to consider the potential impact on vulnerable populations. Specifically, CMS urged States to consider whether and how selecting a new EHB-benchmark plan could help address the opioid crisis in their respective States.<sup>12</sup>

The State of Michigan, through DIFS, is utilizing the greater flexibility granted by CMS to update its EHB-benchmark plan by selecting a set of benefits to become the State's EHB-benchmark plan for plan year 2022, pursuant to "Option 3,"<sup>13</sup> rather than selecting an EHB-benchmark plan based only on an existing plan offered in the market. In the process of developing the 2022 EHB-benchmark plan, DIFS started with Michigan's existing EHB-benchmark plan, the Priority Health HMO plan, as supplemented,<sup>14</sup> as the basis and added the following two new benefits:

- Coverage of at least one intranasal spray opioid reversal agent when prescriptions of opioids are dosages of 50MME or higher.
- Removal of barriers to prescribing Buprenorphine or generic equivalent products for medication-assisted treatment of opioid use disorder.

As required under federal regulation,<sup>15</sup> DIFS is submitting to CMS an actuarial certification and associated report affirming that the proposed 2022 EHB-benchmark plan provides a scope of benefits equal to, or greater than, the scope of benefits provided under a typical employer plan, as defined under 45 CFR 156.111(b)(2)(i); and does not exceed the generosity of the most generous plans listed under 45 CFR 156.111(b)(2)(ii). The NovaRest Actuarial Consulting report provides further detail regarding this analysis, which may be summarized as follows:

- Because the current EHB-benchmark plan was used for the basis for the 2022 EHB-benchmark plan and DIFS is enhancing the current EHB-benchmark plan with the addition of two new benefits, the 2022 EHB-benchmark plan meets the criteria that it is equal to or greater than a typical employer plan.
- To demonstrate compliance with the requirement that the 2022-EHB benchmark plan does not exceed the generosity of the most generous plans listed under 45 CFR 156.111(b)(2)(ii), DIFS collected data from issuers in Michigan and from the Michigan Department of Licensing and Regulatory Affairs and sought the opinions of a consulting pharmacist and provider to assist in determining the materiality of the two additional

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<sup>12</sup> Final 2019 Health and Human Services (HHS) Notice of Benefits and Payment Parameters, 83 Fed. Reg. 16930, 17017 (April 17, 2018).

<sup>13</sup> See 45 CFR 156.111(a)(3).

<sup>14</sup> See footnote 4, *supra*, providing further information regarding Michigan's currently effective EHB-benchmark plan.

<sup>15</sup> See 45 CFR 156.111(e)(2).

benefits and their impact on overall premiums.<sup>16</sup> The addition of the two new benefits would have a nominal impact on the generosity of Michigan's existing EHB-benchmark plan (the Priority Health HMO plan), but that nominal impact would not increase the generosity of the 2022 EHB-benchmark plan above the most generous of the plans listed under 45 CFR 156.111(b)(2)(ii), measured in reliance on a study conducted in 2012 by the actuarial and health care consulting firm, Wakely Consulting Group.

In addition to the actuarial certification and associated report, DIFS is submitting to CMS confirmations that the Michigan EHB-benchmark plan for 2022 satisfies the remaining requirements under 45 CFR 156.111(a), (b), and (c).<sup>17</sup> DIFS is also submitting to CMS the existing Priority Health HMO plan document, formulary drug list, and EHB summary chart, in a format and manner determined by CMS.<sup>18</sup>

*Next: Public Comment →*

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<sup>16</sup> When data was collected from issuers in Michigan, DIFS had been considering a variety of proposed changes to Michigan's 2022 EHB-benchmark plan, including benefits relating to tele-psychiatry. In light of certain responses received, DIFS wishes to remind insurers that in Michigan tele-psychiatry is generally considered "telemedicine" for which face-to-face contact between a health care professional and patient may not be required for services, if appropriate. See § 3476 of the Insurance Code of 1956, 1956 PA 218, MCL 500.3476.

<sup>17</sup> 45 CFR 156.111(e)(1).

<sup>18</sup> 45 CFR 156.111(e)(3).

**Public Comment**

As required under federal regulation,<sup>19</sup> DIFS provided a public-comment period from March 30, 2020, to April 24, 2020. All documentation required for submission to CMS for the modification of an EHB-benchmark plan pursuant to 45 CFR 156.111 was posted on DIFS website<sup>20</sup> for the purposes of facilitating adequate and meaningful public review and comment.<sup>21</sup>

DIFS received three public comments, all of which were supportive of the proposed changes. DIFS did not receive any public comments expressing concern or disagreement regarding the inclusion of the two additional benefits.

*Next: DIFS' Recommendations →*

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<sup>19</sup> 45 CFR 156.111(c).

<sup>20</sup> The DIFS website containing Michigan's EHB information is available for review at: [https://www.michigan.gov/difs/0,5269,7-303-13047\\_13049\\_61590-358198--,00.html](https://www.michigan.gov/difs/0,5269,7-303-13047_13049_61590-358198--,00.html)

<sup>21</sup> After the necessary documentation was made available for public comment, DIFS received a corrected actuarial report from NovaRest Actuarial Consulting that modified the set of comparison plans utilized for analyzing whether the 2022 EHB-benchmark plan exceeds the generosity of the most generous comparison plans pursuant to 45 CFR 156.111(b)(2)(ii). Specifically, and as reflected in the actuarial report being submitted to CMS, the report was modified to reflect that the set of comparison plans includes (in addition to the State's EHB-benchmark plan for plan year 2017) those described under 45 CFR 156.100(a)(1) relating to the State's largest health plans in the small group market. This correction did not modify in any way the conclusion reached by the actuary that the 2022 EHB-benchmark plan satisfies the requirement under 45 CFR 156.111(b)(2)(ii).



**DIFS' Recommendations**

DIFS has consistently focused on developing a benchmark-plan recommendation that balances ensuring all EHB requirements are met to provide comprehensive coverage and mitigating rate increases to provide cost-effective coverage. DIFS believes that Michigan's existing EHB-benchmark plan (Priority Health, HMO, as supplemented), modified by the following two additional benefits, will best strike that balance by continuing to provide comprehensive coverage at affordable rates while also combatting the opioid crisis in Michigan:

- Coverage of at least one intranasal spray opioid reversal agent when prescriptions of opioids are dosages of 50MME or higher.
- Removal of barriers to prescribing Buprenorphine or generic equivalent products for medication-assisted treatment of opioid use disorder.

In developing Michigan's EHB-benchmark plan for plan year 2022, DIFS adhered to all requirements established under 45 CFR 156.111 and is submitting to CMS the following documentation, as required under 45 CFR 156.111(e) and in the form and manner required by CMS:

- Confirmations that the 2022 Michigan EHB-benchmark plan, developed pursuant to "Option 3," satisfies applicable federal regulations.
- An actuarial certification and associated actuarial report affirming that the 2022 Michigan EHB-benchmark plan meets the requirements under 45 CFR 156.111(2)(i) and (ii).
- The plan documentation for the plan serving the basis for the 2022 Michigan EHB-benchmark plan (i.e., plan documentation for the Priority Health HMO plan), a summary of benefits and limitations for the 2022 Michigan EHB-benchmark plan, and the formulary drug list for the 2022 Michigan EHB-benchmark plan containing applicable RxNorm Concept Unique Identifiers, as required by CMS.

The State of Michigan has not included any additional EHB benefits pursuant to 45 CFR 155.170. Nothing in Michigan's 2022 EHB-benchmark plan should be construed as additional EHB requirements under federal law. The set of benefits in Michigan's 2022 EHB-benchmark plan must not be construed to allow an issuer to not cover any and all federal and state required benefits.