

## Statement of the Brain Injury Association of America on the Institute of Medicine’s Framework for Essential Benefits under the Patient Protection and Affordable Care Act

October 7, 2011—Washington, D.C. This morning, the Institute of Medicine (IOM) issued [\*Essential Health Benefits: Balancing Coverage and Costs\*](#), a consensus report commissioned by the U.S. Department of Health and Human Services (HHS) for establishing the criteria and methods to define and update the essential health benefits package that will be included in most<sup>1</sup> private health plans offered to individuals and small groups beginning in 2014 as required by the Patient Protection and Affordable Care Act (ACA).

The Brain Injury Association of America (BIAA) will undertake an in-depth analysis of the 300-page report, but our initial review, which is generally positive, indicates the report:

- Includes the Congressional floor statement of Rep. Bill Pascrell, Jr., calling for a broadly based interpretation for the category of rehabilitative and habilitative services and devices, including “items and services used to restore functional capacity, minimize limitations on physical and cognitive functions, and maintain or prevent deterioration of functioning,” one of the few examples of policymaker intent in enacting the ACA.
- Distinguishes between habilitative services, which are designed to help a person first attain a particular function, from rehabilitation services, which are designed to restore function after illness or injury.
- Discusses the definition of medical necessity and recommends that rather than a universal definition, the HHS Secretary provide guidance to states and health plans in which it is emphasized that the treatment be (1) clinically appropriate for the individual patient, (2) based on the best scientific evidence, taking into account the available hierarchy of medical evidence and (3) likely to produce incremental health benefits relative to the next best alternative that justify any added cost, which in some cases may be no treatment at all, but also adding that **“Inflexibility in the application of medical necessity, clinical policies, medical management, and limits without consideration of the circumstances of an individual case is undesirable and potentially discriminatory.”**

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<sup>1</sup> Self-insured employer-sponsored plans, grandfathered employer-sponsored plans, grandfathered plans in the small group market, grandfathered individual plans in the non-group market and existing Medicaid plans are excluded.

- A recommendation to establish a National Benefits Advisory Council to advise the HHS Secretary on updating the essential benefits through evaluation of the nature of appeals to understand if more specific guidance is required on a particular benefit or service.

Health care reform has been a centerpiece of BIAA's public policy efforts for more than two years, with staff and volunteers advocating on a daily basis for inclusion of rehabilitation in the authorizing legislation, conducting meetings and submitting testimony and written comments on numerous regulation proposed under the law, and representing the interests of individuals with brain injury in important forums, including to the National Association of Insurance Commissioners. These efforts have been guided, in part, by technical expertise of veteran lobbyists, Peter Thomas and Bobby Silverstein of Pyles, Powers, Sutter and Verville, whose engagement was financially supported by BIAA's Business & Professional Council.

Please visit the [Legislative Priorities](#) section of BIAA's website to links to key documents related to these efforts.