

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201



October 7, 2024

Howard Liebers, Supervisory Insurance Examiner
DC Department of Insurance, Securities and Banking (DISB) Insurance Bureau
202-442-8571
Howard.liebers@dc.gov

Dear Howard Liebers:

Thank you for the submission of the District of Columbia's (D.C.'s) application to change its Essential Health Benefits (EHB)-benchmark plan for plan years beginning on or after January 1, 2026. This letter is to inform you that the Centers for Medicare & Medicaid Services (CMS), having completed its review of the application, approves D.C.'s application to change its EHB-benchmark plan under 45 C.F.R. § 156.111. This EHB-benchmark plan will be the basis for determining EHB for non-grandfathered individual and small group health insurance coverage in D.C. for plan years beginning on or after January 1, 2026.^{1,2}

As you know, section 1302 of the Affordable Care Act requires non-grandfathered individual and small group health plans to cover EHB, which include items and services in 10 benefit categories. Federal regulations (45 C.F.R. § 156.100, et seq.) define EHB based on state-specific EHB-benchmark plans. A state may change its EHB-benchmark plan by submitting an application that complies with the requirements at § 156.111.

D.C. submitted an application on May 1, 2024, that sought to expand coverage of infertility treatment to include all procedures consistent with established medical practices by licensed physicians and surgeons to treat infertility, including diagnosis, testing, counseling, medication, surgery, and gamete intrafallopian transfer, in vitro fertilization, and standard fertility preservation services. In accordance with § 156.111(c), D.C. provided a reasonable public notice and an opportunity for public comment on its application with a notice on the opportunity for public comment and associated information posted on a relevant D.C. website. This application included the following materials:

¹ State EHB-benchmark plans also define the benefits that are subject to the prohibition of annual and lifetime dollar limitations under 45 C.F.R. § 147.126. The approval of this new EHB-benchmark plan means that it is now an option for a group health plan or a health insurance issuer that is not required to provide EHB under section 1302(b) to define EHB this purpose. See 45 C.F.R. § 147.126(c)(2) for more information.

² The approval of a change to a state EHB-benchmark plan also impacts the coverage in a Medicaid Alternative Benefit Plans (ABPs) or Basic Health Program (BHP), standard health plan. Under [42 C.F.R. § 440.347](#), Medicaid Alternative Benefit Plans (ABPs) authorized under section 1937 of the Act are required to meet EHB standards. Similarly, under [42 CFR 600.405](#), in States that elect to operate a BHP, the standard health plans must meet EHB standards.

1. A document confirming that D.C.'s EHB-benchmark plan definition complies with the requirements at § 156.111(a), (b), and (c).
2. An actuarial certification and an associated actuarial report from an actuary, who is a member of the American Academy of Actuaries, in accordance with generally accepted actuarial principles and methodologies, that affirms that the State's EHB-benchmark plan complies with the applicable scope of benefits requirements at § 156.111(b)(2).
3. D.C.'s new EHB-benchmark plan document that reflects the benefits and limitations, including medical management requirements, and a schedule of benefits.
4. Other documentation specified by HHS, which is necessary to operationalize the State's EHB-benchmark plan.

Upon review, CMS has determined that D.C.'s application satisfies the requirements to change its EHB-benchmark plans as set forth in § 156.111.

Your state's EHB-benchmark plan selection and accompanying application documents will be posted publicly on the CMS EHB website at

<https://www.cms.gov/marketplace/resources/data/essential-health-benefits>.

If you have any questions, please contact Ken Buerger at Ken.Buerger@cms.hhs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Ellen Montz". The signature is fluid and cursive, with the first name "Ellen" and last name "Montz" clearly distinguishable.

Ellen Montz, Ph.D.
Deputy Administrator & Director
Center for Consumer Information & Insurance Oversight
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services