July 15, 2026

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The Honorable Mehmet Oz, M.D.
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

RE: Joint CPR/HAB Coalition Comments in Response to the CMS Request for Information on the Essential Health Benefits Framework (CMS-9874-NC)

Dear Administrator Oz:

The undersigned members of the Coalition to Preserve Rehabilitation ("CPR") and the Habilitation Benefits ("HAB") Coalition appreciate the opportunity to submit these joint comments in response to the Center for Medicare and Medicaid Services' ("CMS") Request for Information ("RFI") to support the Agency's comprehensive review of the Essential Health Benefits ("EHB") framework and the requirement under the Patient Protection and Affordable Care Act ("ACA")[1] that the scope of EHB be equal to the scope of benefits provided under a typical employer plan. For these reasons described below, the CPR and HAB Coalition strongly urges CMS to preserve the current EHB framework and to reject any future regulatory changes that would weaken, narrow, or otherwise diminish existing consumer protections for individuals with disabilities or other chronic conditions who are enrolled under ACA health plans.

CPR is a coalition of national consumer, clinician, and membership organizations that advocate for policies to ensure access to rehabilitative care so that individuals with injuries, illnesses, disabilities, and chronic conditions may regain and/or maintain their maximum level of health and independent function. The HAB Coalition membership includes national non-profit consumer and clinical organizations focused on securing and maintaining appropriate access to, and coverage of, habilitation benefits within the category known as "rehabilitative and habilitative services and devices" in the EHB package under existing federal law.[2] Collectively, both coalitions represent millions of Americans who depend on comprehensive health coverage to attain, maintain, or regain functional abilities necessary for independence, education, employment, and community participation.

[1] Patent Protection and Affordable Care Act ("ACA"), Section 1302.
[2] *Id*

The ACA's EHB provisions represent one of the law's most significant achievements, establishing a national floor of meaningful, "essential" health coverage and addressing longstanding discriminatory coverage practices that historically limited access to care for individuals with disabilities and chronic conditions, as well as children with serious and complex medical needs. CMS is seeking stakeholder input on a number of alarming aspects of the EHB framework, including current interpretations of EHB, state approaches to benchmark plan selection and updates, methodologies used to determine the scope of EHB, variations in coverage among States, cost pressures affecting EHB, and potential future changes to the EHB framework.

While CMS has characterized this effort as a broad review of existing policies, we have significant concerns that reopening fundamental questions regarding the scope and structure of EHB that have been settled may ultimately lead to proposals that weaken protections that have successfully served consumers for more than a decade. CMS has not identified a policy failure, market deficiency, or evidence-based justification demonstrating that the current EHB framework is inadequate. Absent such evidence, the CPR and HAB Coalition believes the Agency should focus on strengthening implementation and enforcement of existing protections rather than reconsidering the foundational principles established by Congress.

I. Congress Deliberately Established Robust Essential Health Benefit Protections

Any review of the EHB framework must begin with the statutory text and congressional purpose underlying the ACA. The ACA's EHB provisions were not incidental policy choices left entirely to agency discretion. Rather, Congress made the deliberate decision to require coverage of ten categories of benefits that it determined were essential to meaningful health insurance coverage. Among those ten categories, Congress specifically included "rehabilitative and habilitative services and devices," recognizing the critical role these services play in helping individuals attain, maintain, or regain function and independence.

The inclusion of rehabilitative and habilitative services and devices within the statute reflected Congress's understanding that health coverage encompasses more than acute medical treatment. Individuals recovering from injury, living with chronic conditions, born with congenital disabilities, or experiencing developmental disabilities often require ongoing services and devices that enable them to communicate, learn, work, engage in family life, and participate in their communities. Congress determined that these services were sufficiently important to warrant inclusion as one of only ten statutory categories of EHBs.

The legislative history and subsequent implementation of the ACA further demonstrate Congress's intent to address longstanding gaps in private insurance coverage. Prior to enactment of the ACA, rehabilitation and habilitation services were frequently excluded from coverage altogether, subject to arbitrary limitations, or made available only through narrow exceptions. Congress responded by establishing a national floor of comprehensive coverage designed to ensure that consumers would have access to meaningful health benefits regardless of health status, disability, or medical condition.

The CPR and HAB Coalition are concerned that any reinterpretation of the "typical employer plan" standard that results in diminished coverage for rehabilitative and habilitative services and

devices would undermine Congress's express statutory objectives. It could also wipe out 15 years of policy work in the states which have crafted their benchmark plans to meet their state resident's health care needs through the democratic process. The typical employer plan standard was adopted as a benchmark for determining the scope of benefits, not as a vehicle for reducing or effectively eliminating protections that Congress explicitly required health plans to provide. The statutory requirement that EHB be equal in scope to benefits provided under a typical employer plan must be interpreted consistently with the ACA's broader consumer protections, nondiscrimination requirements, and access to care provisions.

Furthermore, Congress expressly prohibited benefit designs that discriminate on the basis of disability, age, expected length of life, or degree of medical dependency.[3] These protections reflect a clear legislative intent that health insurance benefits should not be structured in ways that disadvantage individuals with significant health care needs. Any future revisions to EHB policy must therefore be evaluated not only for their impact on premiums and market dynamics, but also for compliance with all the relevant statutory requirements of the ACA as well as their impact on access to care for populations that Congress specifically sought to protect.

Importantly, CMS has not identified in the RFI any evidence that the current EHB framework has failed to advance Congress's objectives. To the contrary, the framework has improved access to coverage, reduced discriminatory benefit exclusions, and helped establish more consistent protections for consumers across the country. ***In the absence of a demonstrated statutory deficiency or significant policy failure, the CPR and HAB Coalition believe that preserving the existing framework is most consistent with congressional intent and the ACA's text.***

Accordingly, we encourage CMS to approach any potential future rulemaking with the understanding that the Agency's role is to faithfully implement the protections Congress enacted; not to narrow or diminish those protections through reinterpretation of statutory requirements or federal regulations that have been issued in compliance with notice and comment rulemaking over the past 15 years. Any changes to EHB policy should strengthen implementation, improve consistency and reliability of coverage, and reflect advances in medicine and technology while preserving the comprehensive benefit protections that Congress intended to guarantee.

II. Current EHB Framework Remains Necessary to Address Persistent Market Failures

The ACA's EHB requirements were enacted because the individual and small-group insurance markets consistently failed to provide adequate coverage for individuals with disabilities, chronic conditions, and significant health care needs. Prior to the ACA, insurers routinely excluded or severely restricted coverage for rehabilitation services, habilitation services, durable medical equipment, prosthetic limbs and orthotic braces, physical therapy, speech-language pathology, occupational therapy, behavioral health services, and other medically necessary interventions. Individuals and families frequently purchased coverage only to discover that the services necessary to address the medical and functional challenges caused by illness, injury, congenital

[3] See 42 U.S.C. § 18022(b)(4)(B); 45 C.F.R. § 156.125(a).

conditions, or disability were either excluded outright or subject to arbitrary and inadequate limitations.

Congress enacted the EHB provisions specifically to correct these market failures and establish a national floor of meaningful coverage. The ACA recognized that access to health care encompasses more than physician visits and hospital care. Meaningful health coverage finish the job by covering rehabilitation and habilitation services and supports necessary to maximize function, independence, communication, mobility, and participation in community life after an individual survives an illness or injury. ***The CPR and HAB Coalitions impress strongly on CMS that any effort to narrow EHB protections risks recreating the very gaps in coverage that the ACA was designed to eliminate.***

III. The "Typical Employer Plan" Standard Should Not Be Used to Justify Reduced Coverage

The RFI seeks input regarding the statutory requirement that EHB be equal in scope to the benefits provided under a "typical employer plan." The CPR and HAB Coalitions believe the current framework appropriately balances this requirement with the ACA's broader objectives of ensuring access to comprehensive and nondiscriminatory health coverage.

Congress adopted the typical employer plan concept as a benchmark for comprehensiveness; not as a mechanism for importing every limitation, exclusion, utilization management practice, or cost-containment strategy found within employer-sponsored insurance, some of which have emerged or intensified since the EHB was created. Indeed, employer-sponsored coverage itself has evolved significantly since enactment of the ACA, with increasing reliance on prior authorization requirements, utilization controls, narrower provider networks, and other restrictions that can impede access to medically necessary care.

Any reinterpretation of the typical employer plan standard that results in diminished access to care would be inconsistent with the ACA's purpose and intent. The ACA expressly prohibits, by statute, discrimination based on disability, age, expected length of life, or degree of medical dependency. ***Accordingly, the CPR and HAB Coalition urges CMS to place these protections at the forefront of any future consideration of changes to the EHB framework.***

IV. Rehabilitative and Habilitative Services and Devices Are Foundational Health Benefits

CPR and the HAB Coalition are particularly concerned about any potential changes affecting the statutory EHB category of rehabilitative and habilitative services and devices. We wish to note that Congress deliberately included both rehabilitation and habilitation within the ACA's ten statutory EHB categories because they address distinct but equally important health care needs. Rehabilitation services and devices help individuals regain, maintain, or prevent ***deterioration of functions that have been lost or impaired*** due to illness, injury, or disability. Habilitation services and devices help individuals attain, maintain, or prevent ***deterioration of functions that have never been acquired***. Both are essential components of modern health care and are critical to maximizing independence, function, and quality of life.

These benefits are not ancillary services. For many individuals, rehabilitation and habilitation services and devices determine whether they can walk, communicate, learn, work, attend school, perform activities of daily living, live independently, and participate fully in their communities. Access to these services and devices often has a greater impact on long-term health and quality of life than acute medical interventions alone.

Prior to enactment of the ACA, many health plans excluded habilitative services entirely, imposed arbitrary visit limits on both rehabilitation and habilitation services, restricted coverage based on age or diagnosis, or failed to cover medically necessary assistive devices and therapies. Individuals with developmental disabilities, congenital conditions, traumatic injuries, neurological disorders, and other disabling conditions routinely encountered significant barriers to obtaining needed care. The ACA's EHB requirements helped address these longstanding inequities by ensuring that rehabilitation and habilitation services and devices are recognized as essential health benefits. ***The CPR and HAB Coalition maintains that any future effort to narrow these benefits and related protections would represent a significant step backward for people with disabilities and chronic health conditions.***

V. Variation Among States Demonstrates Need for Strong Federal Standards

CMS also seeks comment on variation among States in the scope of benefits included as EHB and State approaches to selecting and updating benchmark plans.

The CPR and HAB Coalition recognizes that variation exists among benchmark plans and State implementation approaches. However, we strongly disagree with any suggestion that this variation demonstrates a need to reduce or weaken the federal EHB framework. **To the contrary, the continued variation in coverage underscores precisely why Congress established a uniform federal floor of EHBs through the ACA and allowed states some degree of discretion to identify the EHB package that meets the needs of their state residents.** Without meaningful federal standards, access to essential health services would once again depend largely upon where an individual lives or the health plan in which they enroll, which is a problem the ACA was specifically enacted to resolve.

Although States retain flexibility in selecting and updating benchmark plan design, coverage standards, and implementation, the appropriate policy response is greater uniformity, stronger federal oversight, and more consistent enforcement of existing statutory and regulatory requirements; not greater flexibility for States or insurers to narrow benefits or impose additional limitations. CMS should instead work collaboratively with States to strengthen implementation of the existing EHB framework, improve transparency regarding covered benefits and limitations, promote greater consistency in benchmark plan design, and ensure robust enforcement of the ACA's consumer protections.

In particular, CMS should continue to ensure that every State benchmark plan provides meaningful coverage of rehabilitative and habilitative services and devices consistent with both the statutory requirements of the ACA and the Agency's existing regulations. States should also be encouraged to modernize their benchmark plans on a periodic basis to reflect advances in

rehabilitation medicine, habilitation services, and assistive devices and technologies that improve functional outcomes and promote independence for individuals with disabilities and chronic health conditions. ***Rather than using State variation as a rationale for reconsidering the scope of EHBs, the CPR and HAB Coalition urge CMS to view this variation as evidence that continued federal standards and leadership remain necessary to ensure comprehensive and meaningful access to health coverage nationwide.***

To the extent CMS identifies inconsistencies in coverage, benchmark design, or implementation, we believe the appropriate response is greater uniformity, stronger oversight, and more robust enforcement; not greater flexibility to reduce benefits. ***The CPR and HAB Coalition strongly urge CMS to work with States to improve compliance, transparency, and consistency in EHB implementation, particularly with respect to rehabilitative and habilitative services and devices.***

VI. Cost Considerations Must Be Evaluated in the Context of Long-Term Value

The RFI references cost pressures affecting the EHB framework and seeks public input regarding affordability and market stability. ***While the CPR and HAB Coalition recognizes the importance of ensuring affordable health coverage, we strongly caution CMS against evaluating EHB primarily through the lens of short-term premium impacts or immediate plan expenditures.*** Such a narrow analysis fails to account for the substantial long-term clinical, economic, and societal value generated by comprehensive rehabilitation and habilitation benefits.

Rehabilitative and habilitative services and devices are medically necessary interventions that enable individuals with disabilities, chronic conditions, congenital disorders, traumatic injuries, and complex medical needs to attain, maintain, or regain functional abilities essential to everyday life. These services improve mobility, communication, cognition, self-care, and independent functioning; prevent avoidable medical complications; reduce hospitalizations and emergency department utilization; delay or prevent institutionalization; support educational achievement and workforce participation; reduce caregiver burden; and improve overall quality of life. As a result, these services frequently reduce total health care expenditures over time by avoiding significantly more costly medical interventions and long-term care.

Similarly, rehabilitation and habilitation devices and technologies such as prosthetic limbs, wheelchairs, seating and positioning systems, augmentative and alternative communication devices, hearing and other assistive technologies should not be viewed simply as health care expenditures. These technologies are investments in health, function, independence, and economic productivity. They enable individuals to work, attend school, participate in their communities, and avoid secondary complications that often result in substantially higher medical costs when these benefits are not covered or otherwise available. Restricting access to these technologies may generate modest short-term savings for insurers but often shifts far greater costs to patients, families, employers, and other public programs, including Medicare and Medicaid.

The CPR and HAB Coalition also encourages CMS to recognize that affordability should be evaluated from the perspective of patients and families; not solely from that of health plans or

issuers. A health plan with lower premiums but inadequate coverage for medically necessary rehabilitation, habilitation, or assistive devices and technologies is not truly affordable for individuals who face significant out-of-pocket costs, declining health, loss of employment, increased dependence on caregivers, or avoidable institutional care because needed services are unavailable.

Accordingly, the CPR and HAB Coalition stress to CMS that any financial evaluation of the EHB framework should consider the full spectrum of health, functional, economic, and societal outcomes associated with comprehensive benefit coverage. ***We urge CMS to evaluate rehabilitation and habilitation services and devices based on the long-term value they generate for beneficiaries and the health care system as a whole rather than focusing narrowly on short-term premium impacts or immediate expenditures. We also encourage CMS to recognize that affordability should be evaluated from the perspective of patients and families, not solely from that of health plans or issuers.*** We believe strongly that a comprehensive evaluation will demonstrate that preserving robust EHB protections promotes not only better health outcomes but also greater economic efficiency, workforce participation, community integration, and long-term market stability.

VII. Advances in Medical Technology Support Maintaining and Strengthening EHB Protections

CMS notes in the RFI that advances in medical technology and health care delivery are among the reasons for undertaking this review. The CPR and HAB Coalition agrees that the health care landscape has evolved significantly since enactment of the ACA. Until recently, federal regulation allowed states to modify and update their EHB packages without the necessity to defray the cost of new benefits under their EHB packages. This enabled states to keep pace with the demands of state residents and changes in medical technology, pharmaceuticals, surgical interventions, and evidence-based medicine. We believe these advances in benefits reinforce the importance of maintaining and, where appropriate, strengthening the EHB framework, not weakening it.

Over the past decade, extraordinary advances in rehabilitation medicine, habilitative services, assistive technology, prosthetics, orthotics, hearing technologies, augmentative and alternative communication devices, remote monitoring, digital therapeutics, and other related interventions have fundamentally transformed the lives of individuals with disabilities and chronic health conditions. Many of these innovations have demonstrated their value by preventing secondary complications, reducing hospitalizations, shortening recovery times, and lowering overall health care expenditures.

Importantly, these advances underscore why the ACA's inclusion of rehabilitative and habilitative services and devices as a statutory EHB remains as relevant today as it was when the law was enacted. ***The purpose of the existing EHB framework is not simply to preserve access to the standard of care that existed in 2010 when the law was enacted, but to ensure that consumers continue to benefit from medically appropriate advances in science, technology, and clinical practice.*** A modern health insurance system should evolve alongside medical

innovation by improving access to effective new therapies and technologies, not by narrowing the scope of coverage or creating additional barriers to medically necessary care.

The CPR and HAB Coalition therefore urge CMS to view medical innovation as an opportunity to modernize implementation of the existing EHB framework rather than reconsider its fundamental structure. Future updates to EHB policy should focus on ensuring that benchmark plans and coverage standards keep pace with advances in rehabilitation, habilitation, and assistive technologies, while preserving the comprehensive protections Congress established under the ACA. As clinical practice continues to evolve, individuals with disabilities and chronic health conditions should have access to evidence-based innovations that improve health, function, independence, and community participation. The ACA's promise of meaningful, comprehensive health coverage depends upon ensuring that consumers have access not only to today's standard of care, but also to the innovations that will define the future of rehabilitation and habilitation services and devices.

VIII. Recommendations

Accordingly, the CPR and HAB Coalition urge CMS to consider the following recommendations in response to this RFI:

- Preserve the current EHB framework and reject proposals that would narrow or weaken existing consumer protections;
- Maintain robust coverage protections for rehabilitative and habilitative services and devices consistent with the ACA's statutory requirements;
- Preserve the existing regulatory definition of habilitative services and devices and continue to recognize rehabilitation and habilitation as distinct but equally important benefits;
- Improve consistency and enforcement of EHB requirements across States and health plans;
- Ensure that advances in rehabilitation medicine, habilitation services, and assistive devices and technologies are reflected in coverage policies;
- Evaluate EHB policies based on long-term health, functional, and economic outcomes rather than short-term cost considerations alone;
- Maintain strong protections against discriminatory benefit design and coverage limitations, as required by statute in the ACA; and
- Continue meaningful engagement with disability, rehabilitation, patient, provider, and consumer stakeholders regarding any future EHB policy discussions.

The ACA's EHB framework has improved access to care for millions of Americans and helped address longstanding inequities in private health insurance coverage. While not perfect, the current framework remains fundamentally sound and continues to serve the ACA's core purpose of ensuring access to meaningful and comprehensive health coverage. Because rehabilitative and habilitative services and devices are expressly identified in the ACA as one of the ten statutory EHB categories, we implore CMS to avoid adoption of any interpretation of the EHB framework or the "typical employer plan" standard that would have the practical effect of reducing access to these benefits or diminishing the protections Congress intended to guarantee.

Rather than revisiting settled protections that have successfully expanded access to care and improved health outcomes, CMS should focus its efforts on strengthening implementation and enforcement of existing requirements. For these reasons, CPR and the HAB Coalition strongly urge CMS to preserve the current EHB framework and maintain robust protections for rehabilitative and habilitative services and devices.

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We greatly appreciate your consideration of our comments to this Request for Information. Should you have any further questions regarding this information, please contact Peter Thomas or Michael Barnett, coordinators for the CPR and the HAB Coalitions, by e-mailing Peter.Thomas@PowersLaw.com or Michael.Barnett@PowersLaw.com, or by calling 202-466-6550.

Sincerely,

The Undersigned Members of the CPR and HAB Coalition

ACCSES*
ADVION
ALS Association
American Academy of Physical Medicine & Rehabilitation
American Association of People with Disabilities
American Association on Health and Disability
American Cochlear Implant Alliance
American Congress of Rehabilitation Medicine
American Music Therapy Association
American Occupational Therapy Association*
American Physical Therapy Association*
American Speech-Language-Hearing Association*
American Spinal Injury Association
American Therapeutic Recreation Association*
Association of Rehabilitation Nurses
The Arc of the United States*
Brain Injury Association of America*
Center for Medicare Advocacy*
Christopher & Dana Reeve Foundation*
Clinician Task Force
Disability Rights Education and Defense Fund
Epilepsy Foundation of America
Falling Forward Foundation*
Lakeshore Foundation
National Association for the Advancement of Orthotics and Prosthetics (NAAOP)

National Association of Rehabilitation Providers and Agencies
National Association of Social Workers (NASW)
National Disability Rights Network (NDRN)
RESNA
Spina Bifida Association

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