

United States Senate

WASHINGTON, DC 20510-4704

June 18, 2015

Robert G. Gootee
Chief Executive Officer
Moda Health
601 S.W. Second Ave.
Portland, OR 97204

Dear Mr. Gootee,

The Affordable Care Act (ACA) made great strides toward improving our health care system and making it work better for patients and families. Today, over 8 million people have enrolled in coverage nationwide, including 170,000 Washington state residents. I believe we need to continue building on this progress with more affordability, better coverage, and higher quality care. Preventive care is a fundamental part of this effort, and I write today with the goal of making sure a critical preventive measure in the ACA is fully implemented and helping families get the quality care they need.

As you are aware, a key provision of the ACA requires health insurance issuers to provide coverage without any cost-sharing for preventive services based on the recommendations of the United States Preventive Services Task Force (USPSTF). I am disappointed to learn that Moda Health is not clearly demonstrating compliance with this coverage requirement and thereby may be neglecting to fully support Washington state families in combatting this persistent public health threat.

Tobacco cessation interventions, including medication and counseling, are clearly defined as one of these benefits. However, a study conducted by Georgetown University in 2012 found that many insurance policies had gaps in coverage of tobacco cessation medication and counseling, and some insurance carriers were still requiring copayments for these treatments, despite the law's requirements.¹ Following this study, the Departments of Labor, Health and Human Services, and Treasury released guidance in May 2014 stating that insurers that covered individual, group, and phone tobacco cessation counseling sessions (at least four per quit attempt) and "all Food and Drug Administration (FDA)-approved tobacco cessation medications including both prescription and over-the-counter medications for a 90-day treatment regimen"

¹ Kofman, M., Dunton, K., & Senkewicz, M. (2012, November 26). Implementation of Tobacco Cessation Coverage under the Affordable Care Act: Understanding How Private Insurance Policies Cover Tobacco Cessation Treatments. Retrieved June 10, 2015, from <http://www.tobaccofreekids.org/pressoffice/2012/georgetown/coveragereport.pdf>.

per quit attempt, without cost-sharing or prior authorization, would be in compliance with the ACA requirement.²

The ACA's expansion of coverage presents a great opportunity to connect tobacco users with the support and treatment needed to help them quit. Unfortunately, the American Lung Association recently found that, even after issuance of the guidance, the publicly available formularies of seven of the ten insurance carriers offering individual market Qualified Health Plans (QHPs) on Washington's insurance exchange, *Washington Healthplanfinder*, did not clearly show coverage of all seven FDA-approved cessation medications without cost-sharing or prior authorization.³ More critically, it appears that the majority of QHPs are not providing complete, accurate, regularly updated, and easily accessible information about that coverage to consumers. Given that nearly 70% of current smokers say they want to quit, this lack of transparency misses opportunities to save lives.

Today, more than 16 million Americans suffer from diseases caused by smoking, and nearly half a million Americans die prematurely from smoking related illnesses each year.⁴ In Washington state alone, tobacco use costs the state more than \$2.8 billion annually in health expenses and an additional \$2.2 billion in related productivity losses.⁵ Beyond the deadly health consequences for those who consume tobacco, secondhand smoke contains hundreds of chemicals that lead to health problems in infants and children, including more asthma attacks, respiratory and ear infections, and sudden infant death syndrome. Since 1964, 2.5 million non-smoking adults have died as a result of secondhand smoke.⁴

Given the severe public health risks and impact, it is critical that tobacco users have health insurance that covers tobacco cessation treatments recommended by the USPSTF with no cost-sharing requirements. While insurance carriers are permitted to use reasonable medical management, they can only employ these tools when an USPSTF recommendation does not specify the frequency, method, treatment, or setting for a service. Since the USPSTF recommendation indicates that FDA-approved tobacco cessation medications and counseling are effective, insurance carriers cannot use medical management to exclude these treatments.

² U.S. Departments of Health and Human Services, Labor and Treasury (2014, May 2). Frequently Asked Questions About Affordable Care Act Implementation. Part XIX, Q5. Retrieved June 10, 2015 from <http://www.dol.gov/ebsa/faqs/faq-aca19.html>.

³ American Lung Association (2015, March 31). State Health Insurance Marketplace Plans: New Opportunities to Help Smokers Quit. Retrieved June 10, 2015 from <http://www.lung.org/assets/documents/publications/other-reports/state-health-insurance-opportunities.pdf>.

⁴ Surgeon General (2014). The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General. Retrieved June 10, 2015 from <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/fact-sheet.html>.

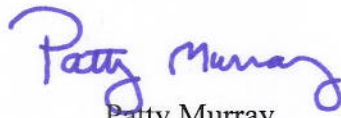
⁵ Campaign for Tobacco-Free Kids (2015, January 8). The Toll of Tobacco in Washington. Retrieved June 10, 2015 from http://www.tobaccofreekids.org/facts_issues/toll_us/washington.

Greater transparency is also needed to ensure that consumers can use insurance carriers' public information, including formularies, to understand their coverage. Inaccuracies in these documents are unacceptable. I encourage you to increase consumer awareness and education of benefits and services. While I understand that some QHPs may provide broader coverage than their respective formulary indicates, a benefit that's hidden from consumers fails to meet the needs of smokers seeking to quit.

The Office of the Insurance Commissioner has taken proactive steps to help ensure that consumers have access to this and other important benefits afforded under the law. Insurance carriers must continue to do their part to provide accurate and up to date information and full coverage of cessation products to people across Washington state. I encourage you to take steps to ensure that all tobacco cessation treatments found to be effective by the USPSTF are covered without cost-sharing and that public information and formularies are up to date, accurate, and compliant with the ACA. I request that you provide a description of the tobacco cessation treatments that Moda Health currently covers without cost-sharing (including any limitations or exclusions) and an update in writing on your action steps to correct these issues and help ensure the families you serve get the health care benefits they need. As part of this effort, I encourage you to work with the Office of the Insurance Commissioner on this issue to continue to improve the consumer experience.

I appreciate your work in implementing the ACA for Washington state and look forward to continuing to work with you on this and other issues.

Sincerely,



Patty Murray
United States Senator