

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

January 23, 2013

James M. Shinol, L.Ac.
President
Acupuncture Society of New York
915 Broadway, 2nd Floor
New York, NY 10010

Dear Mr. Shinol:

Thank you for your letter and for sharing your concerns regarding the issue of acupuncture coverage in New York's Essential Health Benefits. New York's decision regarding Essential Health Benefits was carefully considered after extensive analysis of the federal guidance, outside consultant analysis of our benchmark plan options, and significant input and discussion with a range of stakeholders, including the New York Health Benefit Exchange's five regional advisory committees and the general public.

New York selected the benefits in the small group product with the largest enrollment as its benchmark plan because this option best balanced comprehensive benefits and affordability, two issues of great importance to the State and stakeholders. As you know, acupuncture is not included in this base benchmark plan. That said, proposed federal regulations do allow "substitution" of a benefit that is "substantially equal" to another benefit in the base benchmark plan. For example, acupuncture could be covered as an option for another covered benefit, so long as it is actuarially equivalent.

Further, the Essential Health Benefits definition is a minimum standard. The Exchange will permit health plans to offer benefits in addition to those in the base benchmark plan. This would serve as a way for plans to differentiate themselves from other qualified health plans offered on the Exchange. Finally, to the extent that a Health Savings Account or Flexible Spending Account is offered by a health plan, reimbursement for acupuncture services can be coupled with such products.

New York State's Department of Financial Services (DFS) will retain oversight of health plans in the State. Through this authority, DFS will evaluate health plan compliance with the Essential Health Benefit requirements for coverage effective in 2014 and beyond. Plan proposals to formally substitute or cover benefits that are substantially equal to other benefits will be reviewed through this evaluation.

Thank you again for your letter and interest in the New York Health Benefit Exchange.

Sincerely,

A handwritten signature in cursive script that reads "Donna Frescatore".

Donna Frescatore
Executive Director
New York Health Benefit Exchange