DEPARTMENT OF
Managed
Health Care

STATE OF CALIFORNIA
DEPARTMENT OF MANAGED HEALTH CARE

August 11, 2010

Jay Angoff
Office of Consumer Information and Insurance Oversight
Department of Health and Human Services
Attention: File Code OCIID-4150-IFC
P.O. Box 8016
Baltimore, MD 21244-1850

RE: INTERIM FINAL REGULATIONS FOR PHSA § 2714 (DEPENDENT COVERAGE)
FILE CODE OCIID-4150-IFC

Dear Mr. Angoff:

The California Department of Managed Health Care (DMHC) appreciates the opportunity to comment on the Interim Final Regulations (Rules) for Dependent Coverage of Children to Age 26 under the Patient Protection and Affordable Coverage Act of 2010 (ACA).

The DMHC is the California agency that licenses and regulates health care service plans (health plans) under the Knox-Keene Health Care Service Plan Act of 1975. There are 108 health plans providing managed health care services to 21 million Californians and operating under this state licensing law.

The DMHC has identified several scenarios for which additional clarification would be helpful so that interested parties (health plans, providers, consumers) would better understand their rights and obligations under the federal laws.

I. CLARIFICATION OF PRE-EXISTING CONDITIONS

The Rules for the Public Health Services Act (PHSA) § 2714, as amended by the ACA, require group health plans and health insurance issuers offering group or individual health insurance coverage to give any child whose coverage ended or was

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denied coverage before attaining age 26, and who becomes eligible for coverage under this provision, an opportunity to enroll in dependent coverage for plan years beginning on or after September 23, 2010. The limiting age for dependent coverage is extended to 26 years old and the Rules eliminate consideration of all other factors, such as marital status, financial status, residency status, or student status, to determine coverage eligibility. While the Rules specifically enumerate factors that will no longer affect coverage eligibility, they do not expressly address whether a pre-existing condition will have an effect on coverage eligibility for dependents between 19 and 26 years old.

Notably, the PHSA § 2704, as amended by the ACA, prohibits group health plans and group and individual health insurance coverage, except for grandfathered individual health plans, from imposing any pre-existing condition exclusions. This prohibition applies to enrollees under the age of 19 for plan years beginning on or after September 23, 2010, and generally applies to all enrollees for plan years beginning on or after January 1, 2014.

The DMHC anticipates that various interested parties will receive inquiries regarding dependents with a pre-existing condition, who are between 19 and 26 years old, and who want to rejoin their parent's coverage as a dependent prior to January 1, 2014. Please provide an explanation for how the following three scenarios would be addressed under PHSA § 2714, as amended by the ACA, and the Rules:

A. Scenario I

X is a 20-year-old young adult who had been denied health care coverage under his parents' health plan during his youth, due to a pre-existing condition. X now wants to join his parent's coverage as a dependent under PHSA § 2714, when their plan year starts on October 1, 2010. May his parents' health plan continue to deny X coverage?

B. Scenario II

X aged out of his parents' health care coverage last year when he turned 19 years old on January 15, 2009. Subsequently, while uninsured, X was diagnosed with a medical condition constituting a pre-existing condition. X wants to re-join his parent's coverage as a dependent when their plan year starts on October 1, 2010. May his parent's health plan impose a pre-existing condition exclusion to prevent him from rejoining the plan or, alternatively, impose a waiting period or a waivered condition provision for that pre-existing condition?

C. Scenario III

X is 20 years old. X had been added to his parent's group coverage at 16 years old, after fulfilling a six month pre-existing condition waiting period. X aged out of his dependent coverage last year when he turned 19 years old. Now X wants to re-join his parent's

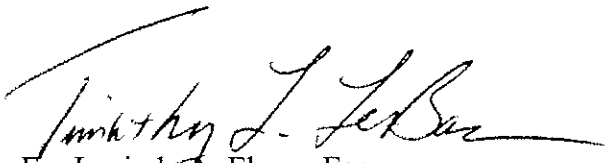
coverage as a dependent when their plan year starts on October 1, 2010. May his parents' plan impose a new six-month pre-existing waiting period?

II. CONCLUSION

In issuing the Rules, the Department of Health and Human Services (HHS) has enumerated specific factors that will no longer affect coverage eligibility for dependents, without specifically addressing pre-existing condition exclusions. Accordingly, further consideration should be given to provide clarity on the above scenarios to help avoid misunderstanding by various affected parties attempting to apply the Rules.

Thank you for the opportunity to comment on the proposed Rules. Should you have questions, please do not hesitate to contact me at (916) 322-2012 or cehnes@dmhc.ca.gov.

Sincerely,



For Lucinda A. Ehnes, Esq.
Director
California Department of Managed Health Care

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