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Group Health Plans and Health Insurance Coverage Rules Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Afforable Care Act

Comment On: IRS-2010-0010-0001
Group Health Plans and Health Insurance Coverage: Interim Final Rules for Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act

Document: IRS-2010-0010-0930
Comment on FR Doc # 2010-14488

Submitter Information

Address: United States,
Organization: 16 members of the Leadership Conference for Civil and Human Rights' Health Care Task Force

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General Comment

Attached please find comments from 16 members of the Leadership Conference for Civil and Human Rights' Health Care Task Force (listed below) re: File Code OCIIO-9991-IFC/RIN 1210-AB42/REG-118412-10. Interim Final Rules for Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act.

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AARP;
American Association of People with Disabilities (AAPD);
American Civil Liberties Union;
Asian & Pacific Islander American Health Forum;
Black Women's Health Imperative;
Families USA;
International Union, United Automobile, Aerospace & Agricultural Implement Workers (UAW);
Japanese American Citizens League;
Legal Momentum;
NAACP;
National Congress of the American Indians;
National Council of Jewish Women;
National Council of La Raza (NCLR);
National Health Law Program;
National Partnership for Women & Families;

National Women's Law Center.

Attachments

IRS-2010-0010-0930.1: Comment on FR Doc # 2010-14488

August 16, 2010

Office of Consumer Information and Insurance Oversight
Department of Health and Human Services
P.O. Box 8016
Baltimore, Maryland 21244-1850
Attention: OCIIO-9991-IFC

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210
Attention: RIN1210-AB42

Internal Revenue Service
P.O. Box 7604 Ben Franklin Station
Washington, DC 20044
Attention: REG-118412-10

RE: File Code OCIIO–9991–IFC/RIN 1210–AB42/REG–118412–10. Interim Final Rules for Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act

Dear Sir or Madam:

Thank you for the opportunity to comment on the interim final regulations regarding the grandfathering provisions of the Patient Protection and Affordable Care Act (ACA). Many of the undersigned organizations have submitted comments on several aspects of the interim final regulations; however, as members of the Leadership Conference for Civil and Human Rights (the Leadership Conference) we collectively are submitting these additional separate comments in order to stress the importance of §1557 of the ACA.

Section 1557 of the ACA forbids discrimination on the grounds of sex, race, national origin, disability or age in health programs or activities receiving federal financial assistance or by programs administered by an Executive Agency or any entity established under Title I of the ACA. Because §1557 applies broadly to federally conducted programs and to entities that receive federal funding or assistance, it is essential that as federal agencies issue regulations for the ACA, they consistently take the mandates of §1557 into account and make clear how other ACA regulations interact with §1557. We therefore recommend that the Departments clarify in these regulations the application of §1557 to grandfathered plans.

First, we recommend that the Departments make clear that §1557 applies to grandfathered plans. As stated in the ACA (§1251) and reiterated by the Departments in

the interim final rule regarding grandfathered plans, grandfathered plans are exempt from only those provisions contained in subtitles A and C of Title I, with the exceptions noted within those subtitles and in the regulations. 75 Fed. Reg. 34559, 34563, 34567. Although §1557 does state that it applies "except as otherwise provided for in" Title I, nothing in §1251 conflicts with §1557. Thus, because §1557 is in subtitle G and there is no conflict with §1251, §1557 applies to grandfathered plans.

Second, the Departments should clarify that changes made to a health plan in order to comply with §1557 will not cause a grandfathered plan to lose its grandfathered status unless such changes exceed the limits specified in the interim final rule. 75 Fed. Reg. 35444. As the explanation of the interim final regulations makes clear, if a health plan alters its provisions in order to meet the requirements of federal or state law, including the ACA, it will not lose its grandfathered status. However, as would be the case in complying with other requirements of the law, if such changes exceed the limits of changes set forth in paragraph (g)(1) of the interim regulations, the plan will lose its grandfathered status. 75 Fed. Reg. 35444 ("Under these interim final regulations, changes other than the changes described in 26 CFR 54.9815– 1251T(g)(1), 29 CFR 2590.715–1251(g)(1), and 45 CFR 147.140(g)(1) will not cause a plan or coverage to cease to be a grandfathered health plan. Examples include changes to premiums, changes to comply with Federal or State legal requirements, changes to voluntarily comply with provisions of the Affordable Care Act, and changing third party administrators, provided these changes are made without exceeding the standards established by paragraph (g)(1)." (emphasis added))

Section 1557 will ensure that as our health care system reaches more Americans and makes coverage more affordable, it does so in a manner free from discrimination based on the grounds listed in §1557. Therefore, it is important that regulations implementing the law, including the final regulations regarding grandfathering status, incorporate §1557's mandate and make covered plans, providers, and other programs aware of their obligation to comply with the nondiscrimination protections of the law.

We look forward to working with you to ensure that the nondiscrimination provisions of the ACA are fully integrated into the implementation of health care reform.

Sincerely,

AARP
American Association of People with Disabilities (AAPD)
American Civil Liberties Union
Asian & Pacific Islander American Health Forum
Black Women's Health Imperative
Families USA
International Union, United Automobile, Aerospace & Agricultural Implement Workers (UAW)
Japanese American Citizens League
Legal Momentum

NAACP
National Congress of the American Indians
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National Council of La Raza (NCLR)
National Health Law Program
National Partnership for Women & Families
National Women's Law Center

cc: Ms. Georgiana Verdugo, Director Office of Civil Rights, HHS
Dr. Howard Koh, Assistant Secretary for Health, HHS
Dr. Garth Graham, Deputy Assistant Secretary for Minority Health, HHS