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Requirements for Group Health Plans and Health Insurance Issuers under the Patient Protection and Affordable Care Act

Comment On: IRS-2010-0015-0002
Patient Protection and Affordable Care Act: Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, and PatientProtections

Document: IRS-2010-0015-0005
Comment on FR Doc # 2010-15278

Submitter Information

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Organization: State of CT Office of the Healthcare Advocate
Government Agency Type: State
Government Agency: State of CT Office of the Healthcare Advocate

General Comment

See attached comments.

Attachments

IRS-2010-0015-0005.1: Comment on FR Doc # 2010-15278

July 1, 2010

Office of Consumer Information and Insurance Oversight
Department of Health and Human Services,
Attention: OCIIO-9994-IFC,
P.O. Box 8016,
Baltimore, MD 21244-1850

Re: Response to Request for Comments, OCIIO-9994-IFC

To Whom it May Concern:

The State of Connecticut Office of the Healthcare Advocate ("OHA") offers its comments on the above-captioned OCIIO-9994-IFC request for comments related to Section 1001 of the Patient Protection and Affordable Care Act of 2010 ("PPACA"), Public Law 111-148 (effective March 23, 2010), which creates section 2712 of the Public Health Service Act ("PHSA") and section 2301 of the Health Care and Education Reconciliation Act of 2010 ("HCERA"), Public Law 111-152, which makes Section 2712 of the PHSA applicable to grandfathered plans. OHA believes that the setting, definition and enforcement of a rigorous process to guard against abusive rescission practices at the federal level is critical to reigning in the unwarranted consumer abuses in the marketplace. Our comments reflect our concern that section 2712 is interpreted in the manner in which it was proposed, to protect consumers.

We are grateful that section 2712 sets a federal floor that will allow states to enact even stronger protections for consumers. We wish its interpretation to be accorded the weight it deserves, given the considerable attention that rescission issues received from Congress over the last several years.

Comments on the Interim-Final Rule

We have several comments with respect to the interim-final rule on PHSA section 2712. Those comments are as follows.

1. For the benefit of beneficiaries, the word "material" in reference to a "material fact" should be defined.

- Beneficiaries should know what kind of information is "material" to the issuance of an insurance policy.

2. The notice to the insured should contain specific information on how the insured can access **all** the information the insurer relied on to make a determination to rescind.

- This will make the process fairer for consumers and will allow for better preparation for an appeal.

3. The notice from the insurer should note that insurer bears the burden of proving intentional misrepresentation or fraud.

- Rescission is such a drastic remedy that it should be the burden of the insured to prove intentional misrepresentation of a material fact or fraud.

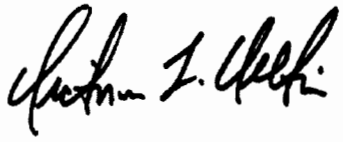
4. Notice should explain other relief available if the insurer doesn't reverse its decision.

- The notice should explain whether further review with the company, an external reviewer, or a court may be available.

Generally, OHA believes that requiring insurers to use a third-party review process would make the process fairer for consumers and would reach the true goal of the provision, to prevent unwarranted rescissions. Providing advanced notice to an enrollee before rescinding is a positive step, but it still puts the decision to rescind in the hands of the insurer, without an apparent right to further review---except in court.

Thank you for your consideration of OHA's comments. You may direct any questions concerning these comments to me at victoria.veltri@ct.gov or at (860)297-3982.

Very truly yours,



Victoria L.Veltri
General Counsel

c: Kevin Lembo, Healthcare Advocate