



September 9, 2010

The Honorable Phyllis Borzi, Assistant Secretary
Employee Benefits Security Administration
U.S. Department of Labor
Washington, D.C. 20210
Attn: RIN 1210-AB44

The Honorable Jay Angoff, Director
Office of Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
Washington, D.C. 20201
File Code: OCIIO-9992-IFC

Re: Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act

Position: Preserve health plans' ability to encourage use of on-site clinics and discourage use of providers that charge "facility fees"

Dear Ms. Borzi and Mr. Angoff:

On behalf of the more than 160 Wisconsin employers that are members of The Alliance, I ask that you clarify two specific issues in the Interim Final Rules governing coverage of preventive services for group health plans. The first issue relates to cost sharing requirements for in-network care when first dollar coverage of preventive care is provided through an on-site clinic. The second relates to payment of "facility fees" charged in conjunction with the delivery of preventive care.

The Alliance was founded in 1990 by employers who saw the potential of working together to control costs, improve quality, and engage individuals in their health. Many of our members already provide first dollar coverage of preventive care because they understand the benefit of healthy employees.

A growing number of our members are using on-site clinics for the delivery of primary and preventive care at low or no cost to the enrollee. Employers find on-site clinics valuable for several reasons. On-site clinics encourage employees to seek out timely primary and preventive care by making it easy and convenient for them to see a clinician. They can increase the time a provider spends with his or her patient because on-site clinicians are generally salaried or paid by the hour. They also reduce costs for the plan. One member estimates that his plan saves a minimum of sixty percent on the cost of an office visit delivered on-site versus in a physician office.

To promote use of the onsite clinic, some employers provide first dollar coverage of preventive care on-site and require two levels of co-pay off-site, a lesser amount in-network and a higher amount out-of-network. Unfortunately, the regulations issued call into question whether or not this three-tiered approach would still be allowable. We urge you to clarify this issue and hope you will allow employers to continue to encourage use of the on-site clinic through this co-pay structure.

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We can expect that on-site clinics will continue to multiply as physician office visits in Wisconsin and other states are becoming more expensive. One reason this is happening is the emergence of "facility fees" that are becoming increasingly more common. A facility fee can be charged, *in addition to the full price for an office visit*, when the clinician providing the service does not own the building within which care is delivered. The owner of the facility, many times a hospital, issues an additional charge for using the building. This fee can be billed with the office visit or separately.

Based on our own analysis from Alliance claims data, total billed charges are 78.7 percent higher when there is a facility fee compared to when there is not. What's more, consumers often do not realize they have incurred a facility fee until the bill arrives, or that this fee could have been avoided by using a clinic where these fees are not charged. The use of facility fees, which amounts to little more than a hidden charge for which no additional value is provided, is a growing practice as hospitals seek ways to increase revenue.

Ideally, Alliance employers would like providers to end the practice of charging facilities fee. At a minimum, providers should notify consumers about the additional fee at the time an appointment is scheduled. Since neither is the case in most states including Wisconsin, some employers and insurance plans now require cost sharing for facility fees to encourage consumers to use clinics that don't charge facility fees. Many times patients can see the same clinician in another building for almost half the cost.

The Interim Final Regulations are silent on whether employers are able to deny coverage or require cost sharing for facility fees when they are charged along with an office visit for a preventive service. Facility fees can be billed as "office visit fees" or similar terms even though the billing codes are different. We ask that you clarify this issue for employers and allow cost sharing or coverage denial for facility fees to continue under the regulation, regardless of how building owners bill them.

Thank you for your consideration of these comments. If you have any questions, please do not hesitate to contact me.

Sincerely



Cheryl A. DeMars
President and CEO
The Alliance