



August 9, 2010

The Honorable Kathleen Sebelius, Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

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Sophie Arao-Nguyen, Ph.D.

RE: File Code OCIO-4150-IFC

Dear Secretary Sebelius:

On behalf of *Family Voices, Inc.*, I would like to submit the following comments on the Interim Final Rules (IFR) pertaining to dependent coverage of children to age 26 under the Patient Protection and Affordable Care Act (ACA).

Family Voices is a national nonprofit organization of families whose children have special health care needs, such as disabilities or chronic illnesses, and the professionals who serve them. The organization's mission is to achieve family-centered care for all children and youth with special health care needs and/or disabilities. Through *Family Voices*' national network, the organization provides families with tools needed to make informed decisions, advocates for improved public and private policies, builds partnerships among professionals and families, and serves as a trusted resource on health care.

Family Voices is particularly interested in the issue of dependent coverage until age 26 because it is currently very difficult for young adults with special health care needs to obtain insurance after aging out their parents' plans, due to pre-existing condition exclusions. Moreover, young adults with special health care needs may have more trouble than their healthier peers in either attending school full-time, thereby qualifying for their parents' coverage, or in finding and/or maintaining jobs that offer insurance coverage.

In general, we are very pleased with the IFR you have issued to implement the ACA's extension of parental insurance coverage to children up to age 26. However, we have several suggestions about how the regulations might be improved.

Definition of Dependent. First, we urge that you define dependent to include adopted children, stepchildren, former foster children, and grandchildren (in cases where insured grandparents serve or served as the actual or legal guardians of their grandchildren), and other adult children who would be covered by the insured's plan

if the child were a minor, student, or other dependent otherwise permitted to be on a parent's plan. Defining dependent to include these individuals would be consistent with the intent of the law to simply extend the age through which dependents can remain on the plans they were on before "aging out."

Loss of employer-sponsored insurance. We recommend that the final regulations clarify that an adult child can enroll or re-enroll in a parent's insurance plan without having to wait for an open enrollment period if the child should lose his/her own employer-sponsored insurance.

Our other suggestions are related to the fact that, until 2014, the law allows a "grandfathered" group plan to exclude from coverage dependents who are "eligible to enroll" in their own employer-sponsored plans. Clarifications with respect to this provision could help to avoid situations where young adults would be uninsured or underinsured because they are neither in a meaningful employer-sponsored plan nor permitted to be enrolled in their parent's grandfathered plan.

Delayed employer-sponsored coverage. For individuals with special health care needs, it is particularly important to be insured at all times. Therefore, we urge that the final rule clarify that a dependent may enroll in or remain on his/her parent's insurance plan during any waiting period that might be imposed under the dependent's employer benefits package or employer-sponsored insurance plan.

Inadequate employer-sponsored coverage. For individuals with special health care needs, it is particularly important that insurance coverage be comprehensive. Accordingly, we recommend that the final rule allow a dependent to enroll in his/her parents' grandfathered plan if the employer-sponsored plan in which the dependent is "eligible to enroll" is a plan offering only limited or temporary benefits, such as an accident-only or "mini-med" plan. Similarly, the final rule should allow dependents to enroll in or remain on their parents' grandfathered plans if the dependent is offered an employer-sponsored plan that has received a waiver from annual cap limitations.

Pre-existing condition exclusions. Almost by definition, individuals with special health care needs have pre-existing conditions. Until 2014, the ACA allows group plans to exclude coverage pre-existing conditions for up to a year after an individual enrolls. Under current law (the Health Insurance Portability and Accountability Act), every day that a person spends on a qualifying health plan before joining a different plan reduces the amount of time an insurer can exclude for a pre-existing condition by an equal number of days. Thus, young adults who were already on their parent's insurance for a year would not face a pre-existing condition exclusion. However, if the individual had not had "creditable coverage" for at least a year, then they could face a pre-existing condition exclusion period. This would clearly run contrary to the intent of the law to expand meaningful coverage for the young adult population. Accordingly, the final rule should prohibit grandfathered plans from denying dependent coverage unless and until the dependent's employer-sponsored coverage is comprehensive (i.e., does not have any pre-existing condition exclusions.)

Thank you for your attention to these comments. If you should need additional information, please feel free to contact one of our Public Policy Co-Directors, Janis Guerney (jguerney@familyvoices.org, or 202-546-0558) or Brooke Lehmann (blehmann@familyvoices.org or 202-333-2770).

Sincerely,

A handwritten signature in cursive script that reads "Sophie Arao-Nguyen".

Sophie Arao-Nguyen, Ph.D.
Executive Director