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December 13, 2010

Office of Consumer Information and Insurance Oversight
Department of Health and Human Services
Attention: OCIIO-9991-IFC2
Room 445-G
Hubert Humphrey Building
200 Independence Avenue, SW
Washington, D.C. 20201

Re: Council of Smaller Enterprises Comments on the Amendment to the 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 [OCIIO-9991-IFC2]

Dear Sir or Madam:

The Council of Smaller Enterprises (COSE) submits the following comments in response to the Internal Revenue Service, Department of Labor, and Department of Health and Human Services' request for comments regarding the Amendment to the 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 [OCIIO-9991-IFC2].

COSE, Northeast Ohio's largest small business support organization, strives to help small businesses grow and maintain their independence. Comprised of more than 15,000 member companies, COSE has a long history of fighting for the rights of all small business owners, whether it's through group purchasing programs in health care, workers' compensation, or energy, or advocating for specific changes legislation and regulation.

Since 1973, COSE has provided small business owners in Northeast Ohio with access to health insurance programs. Currently, COSE's health insurance program covers over 10,000 small business owners, and covers over 175,000 lives in Northeast Ohio. As the sponsor of this small business insurance program, COSE is responsible for health insurance sales, customer retention, customer service, communications for those items that specifically relate to the COSE pool, and advertising for the COSE program. Our goal in these efforts is, and has always been, to ensure that small businesses receive the best insurance coverage, support, and service possible.

This letter is intended to convey COSE's comments related to the amendment to the interim final rules listed above. We appreciate the opportunity to provide comments on this important matter and welcome the opportunity to assist you and the other agencies in this and other PPACA implementation initiatives.

Grandfathered Compliance Standards

As the amendment to the interim final rules indicates, it is appropriate to allow a group health plan to change health insurance coverage without ceasing to be a grandfathered health plan, provided that the plan continues to comply fully with the standards set forth in paragraph (g)(1). COSE supports this modification and the flexibility it provides to small groups and the self-insured. However, COSE is concerned with the feasibility of measuring plans against one another in order to determine if a change in plan is compliant with the standards outlined in the interim final rules. Because no plans are identical, it can be challenging to make apples to apples comparisons, which could result in some inconsistency with regard to deeming plan changes or contracts as compliant or non-compliant. As such, COSE proposes that the Departments develop specific standards requiring that certain criteria such as deductible, coinsurance, out-of-pocket maximums and co-pay amounts, must remain identical from one plan to the next in order to be considered compliant. This would provide a safe harbor for small business to ensure that their Grandfathered Status will be recognized. Further, COSE would support a requirement that a plan change must not result in any significant elimination of benefits as a condition to retain grandfathered status. These criteria will ensure that the benefit levels remain the same while also accounting for the differences in each plan.

Implementation Date

COSE would also like to comment on the implementation date noted in this amendment to the interim final rules. As the amendment to the interim final rules indicates, the changes will apply to group health insurance coverage that is effective on or after November 15, 2010 and will not be applied on a retroactive basis. COSE has concerns with this element of the amendment and feels that it places groups who have made changes prior to November 15, 2010 at an unfair disadvantage. Prior to the release of the amendment to the interim final rules, many small business owners may have changed their plans or contracts and therefore lost their grandfathered status simply because of the unfortunate timing of their renewal. As such, COSE believes that the Departments should implement this amendment to the interim final rules on a retroactive basis dating back to March 23, 2010 in order to allow all groups and the self-insured with the opportunity to take advantage of this new opportunity to retain their coverage as grandfathered.

Additional Comments

Separate from the amendment to the interim final rules, COSE would also like to comment on the general nature of the implementation date for Grandfathered Status. With over 15,000 small business members, COSE has a vested interest in ensuring that small business owners have the information and opportunity to make the best health care decisions for their business, their employees, and their families. Since the passage of the Patient Protection and Affordable Care Act (PPACA), COSE has held a number of informational seminars to educate small business owners about health care reform. To date, we have had over 500 attendees at these seminars and have learned that there remains a great deal of confusion around the concept of a "grandfathered plan." Therefore, COSE proposes that the deadline for a plan to be deemed as "grandfathered" be extended from March 23, 2010 to March 23, 2011. We have two reasons to support this extension.

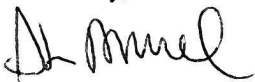
First, between March 23, 2010 and June 17, 2010 when the interim final rules were released, many small business owners faced choices about their health insurance renewals. During that period in time, there were no distinct rules around what specifically would qualify a plan as "grandfathered." As a result, many small business owners may have made changes to their plans without knowing that, in doing so, they were disqualifying themselves from the ability to retain the coverage they had. COSE believes that the purpose of PPACA was not to intentionally place small group health plans at a disadvantage and therefore proposes the aforementioned modification as a way to allow small business owners with the opportunity to make informed decisions about their business' health plans going forward.

In addition, through our experience, it is clear that the passage of PPACA has left many small business owners with questions about coverage options and opportunities for their business. If the rules are amended to allow everyone to retain the coverage they have as of March 23, 2011 instead of March 23, 2010, it would provide ample opportunity for education, awareness, and clarity for groups when making decisions about their plans.

Conclusion

Thank you, again, for the opportunity to respond to the Request for Comments on the Amendment to the 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. With nearly 40 years of experience in the small business health insurance market, we would like to extend COSE as a resource to assist you in the PPACA implementation efforts. Should you have any questions, please feel free to contact me via email at smillard@cose.org or phone at 216-592-2468.

Sincerely,



Steve Millard

President and Executive Director