



August 26, 2010

VIA Federal eRulemaking Portal

**Re: Comments on the Patient Protection and Affordable care Act;
Requirements for Group Health Plans and Health Insurance
Issuers Under the Patient Protection and Affordable Care Act
Relating to Preexisting Condition Exclusions, Lifetime and
Annual Limits, Rescissions, and Patient Protections; Final Rule
and Proposed Rule**

To Whom it May Concern:

The Interim Final Regulations implementing the rules for group health plans regarding lifetime and annual dollar limits on benefits as written do not exempt small supplemental union benefits plans from the provisions. The effect of failing to provide such exemptions would render many of these small supplemental funds incapable of continuing to provide coverage to participants.

The type of fund this comment focuses on is a self-insured union benefit fund that covers certain municipal employees (non-federal government employees). The plan pays up to a current maximum of \$5,000 for a participant's family's covered prescription drug costs per year. The plan was created to supplement a health plan already provided to municipal employees by the municipality; however the health plan provided by the municipality does not include prescription drug coverage at all. After the plan covers the first \$5,000 worth of prescription drug costs per family per year, participants and their family members still have access to the plan's prescription drug plan which negotiates discounts with participating pharmacies. This plan is not a health reimbursement arrangement, though it operates similarly to one.

The concern for this type of supplemental fund is that the Interim Final Regulations prohibit group health plans from imposing lifetime or annual limits on the dollar value of health benefits generally. Since prescription drugs are considered an essential health benefit, the way the Interim Final Regulations are written, the fund described above would not be allowed to limit the amount of out-of-pocket expenses covered annually by the fund. This would result in the fund ceasing to offer the benefit at all; participants would be paying more out-of-pocket for their prescription drugs—a

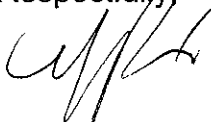
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result directly at odds with the purposes of the Patient Protection and Affordable Care Act ("PPACA").

Defining "group health plan" in such a way as to exempt such supplemental plans from the lifetime and annual limits would assist such funds in continuing to offer ways to assist participants with their health care costs. Alternatively, continuing to apply the opt-out provision under the Public Health Service Act to non-Federal governmental plans, would also assist.

Thank you for your consideration.

Respectfully,



Nicole Pérez