



August 27, 2010

Hon. Kathleen Sebelius, Secretary, U.S. Department of Health and Human Services

Hon. Hilda Solis, Secretary, U.S. Department of Labor

Hon. Timothy Geithner, Secretary, U.S. Department of Treasury

Office of Consumer Information and Insurance Oversight

Department of Health and Human Services

ATTN: OCIO-9994-IFC

P.O. Box 8016

Baltimore, MD 21244-1850

Submitted via E-OHPSCA715.EBSA@dol.gov.

Re: Comments on Interim Final Rule on Annual and Lifetime Limits, and Rescissions, and Patient Protections Relating to Emergency Services

Dear Secretaries Sebelius, Solis, and Geithner:

We are writing on Behalf of the HEREIU Welfare Fund (the Fund), a Multiemployer Taft Hartley Fund, and the Health Services Coalition (HSC) to provide comments to the Departments of Health and Human Services, Labor, and Treasury regarding the Interim Final Rule on the Requirements for Group Health Plans and Health Insurance Issuers Under the Patient Protection and Affordable Care Act relating to Lifetime and Annual Limits, Rescissions, and Patient Protections issued on June 28, 2010 in the Federal Register (75 Fed. Reg. 37188).

The Fund provides health benefits for employees in the hospitality industry through a Taft-Hartley Multi-employer plan, with plan units in Las Vegas, Atlantic City, Chicago, New York, Pittsburgh, Peoria, and small pockets elsewhere in the country. We represent approximately 200,000 covered patients nationally.

Our specific concerns and suggestions regarding the annual limits regulations are outlined below:

1. **Eligibility for Waiver** – small plans that are multi-employer Taft Hartley plans rely on their annual and lifetime limits as an important method to control unpredictable costs. These Plans are not for profit. They operate solely with the mission of providing consumer-focused healthcare coverage benefits through collectively bargained contracts. They do not have profit margins or stockholders, and they cannot compete with large insurers.

Our actuary has just completed projections regarding the impact of the annual and lifetime limit restrictions on each of our units. Our small plan unit in Peoria, Illinois, for example, covers 230 patients. It will incur an approximate 26.2% increase in costs next plan year to lift lifetime and annual limits. This is unsustainable, and small plans, including this plan, will not be able to continue to provide health care coverage without deeply cutting the plan of benefits for our patients in every other way. Such increases would render the plans unstable and unsustainable.

We recommend that the Final rules concerning annual limits allow not-for-profit Taft Hartley and multiemployer plan units of a less than 1,000 covered lives be exempt from the restrictions on annual limits, if those limits would result in annual cost increases over 10% over medical inflation.

2. Exemption on Annual Limits for Specialty Drug Market – Our plans will continue to develop healthcare cost containment strategies that optimize patient care – we have programs in place to address chronic disease, reduce waste, and improve quality. However, we are completely unable to provide any kind of cost, waste, or profit controls on the Specialty Drug market. There are no federal, state, or local remedies for the very dramatic increase in costs associated with this niche market currently heavily supported and protected by the pharmaceutical industry as it's next profit frontier. For example, one orphan medication provided by one pharmaceutical company cost over \$500,000 per month. Again, this is unsustainable and no external or internal controls exist to contain this escalation in the current architecture of the PPACA.

We recommend that the Final rules concerning annual and lifetime limits allow not-for-profit Taft Hartley and multiemployer plans to retain annual limits on specialty drugs.

3. In Network Providers – Finally, the interim final rules are silent on the issue of whether out of network benefits are to have no annual or lifetime limits. Plans manage not just cost but patient navigation, communication, and quality through the providers in their network. Without limits on out of network benefits, the role and goal of value-based plan designs is completely obliterated.

We recommend that the Final rules concerning annual and lifetime limits consider essential benefits to be only for in-network benefits and providers, except in cases when no network provider is available.

Thank you for the opportunity to comment on the interim final rules and for the considering the situation facing not-for-profit multiemployer and Taft Hartley funds. If we can be of any assistance, please contact Bobbette Bond at 702-892-7327 or bbond@culinaryhealthfund.org.

Sincerely,



Morty Miller, Chief Executive Officer