



National Association of Health Underwriters

America's Benefits Specialists

September 17, 2010

Via Electronic Submission

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

RE: OCIIO-9992-IFC—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

Dear Secretary Sebelius:

I am writing on behalf of The National Association of Health Underwriters (NAHU), a professional trade association representing more than 100,000 licensed health insurance agents, brokers, consultants and employee benefit specialists nationally. We are pleased to offer comments on the 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, as published July 19, 2010, in Volume 75, Number 137 of the *Federal Register*.

NAHU members service the health insurance policies of millions of Americans and work on a daily basis to help individuals and employers purchase health insurance coverage. They design benefit plans and solve problems that may occur once coverage is in place. Furthermore, most are small-business owners themselves. Our membership strongly supports the benefits of improved access to preventive care; however, as this rule is implemented, we want to address some of the issues that could create confusion for employers and individual health insurance consumers, as well as inadvertently impact the affordability of private health insurance coverage.

Regarding the cost-sharing requirements for office visits where preventive care services are received, NAHU has concerns that the way they are structured may be confusing for health insurance consumers, and may increase cost and paperwork burdens for providers and health plans. Cost-sharing for routine office visits is a component of virtually every private health insurance plan. It is an important means of encouraging responsible utilization of services and containing medical care costs.

According to the IFR, if a recommended preventive service is billed separately from an office visit, then cost-sharing may be imposed with respect to the office visit only. If a recommended preventive service is not billed separately and the primary purpose of the office visit is for such preventive services, then cost sharing may NOT be imposed with respect to the office visit. However, if the primary purpose of

the office visit is for a reason other than the delivery of preventive services, then cost-sharing MAY be imposed with respect to the office visit.

Currently, providers rarely bill separately for preventive care services. Furthermore, such services are often provided during office visits originally scheduled to treat a current medical concern. For example, a patient comes in to treat an injury but, while in the office, also receives a needed vaccine booster. Conversely, diagnosis and treatment of a medical concern regularly occurs during the course of office visits initially intended primarily for preventive care purposes. For example, a child's ear infection is diagnosed and treatment prescribed during a well-child visit. Since the child is deemed sick, needed vaccines are not administered, and a follow-up well-child visit is necessitated. Situations like these occur all the time in the course of providing medical services. The way the current rule is structured, we believe it will be difficult for consumers, providers and health plans to know how exactly how to determine if an office visit is primarily for preventive care services, and when an office visit charge can be imposed with respect to preventive services.

NAHU is concerned that, under current rules, providers may feel obligated to begin separately billing for preventive care services, increasing the paperwork burden and associated costs for all. Also, the way the IFR is structured, we are concerned that providers and plans may not feel able to bill the standard office visit co-pay if there is any ambiguity about the purpose of the visit, which will have utilization and, ultimately, cost impact for all. In addition, we feel that consumers may become easily confused about visit purposes and cost-sharing obligations. Considering that the way to resolve consumer, plan and provider differences of opinion about the determination of the primary purpose of an office visit is the utilization of the expensive and time-consuming claims-review process, we would appreciate further clarity about exactly how, when and by whom an office visit is determined to be primarily for preventive care services.

Regarding the coverage of preventive care services through employer group health plans, NAHU appreciates the IFR's recognition of the need for employers to use reasonable medical-management techniques to help contain health care costs. Particularly in these economic times, we must do everything we can to keep health coverage affordable and make it possible for employers to continue to provide coverage to approximately 170 million Americans.

However, as NAHU members help their employer clients design benefit packages for their employees, we have seen the need for clarification regarding extent to which the IFR allows employers to define the scope of coverage for preventive care services. Given the high penalties employers face (up to \$100 day per individual per violation) and the fact that the only way to resolve disputes about coverage is an extensive, timely and expensive appeals process, we would appreciate further clarification and examples of how exactly medical-management techniques may be employed regarding setting limits on frequency of service, recommended range of frequencies, settings for coverage of services, and the method and scope of coverage. For example, we would hope that it is made clear that plans must only cover at the first-dollar level screening tests that are appropriate for the general population, as opposed to requiring first-dollar coverage of more frequent or specialty tests for high-risk individuals.

NAHU also wants to make sure that the IFR does not inadvertently preclude employers and insurers from incentivizing employees to make responsible purchasing decisions when it comes to their medical care. The cost of receiving the same recommended preventive services can vary greatly by provider. Some employers have developed innovative cost-containment models to help employees recognize these price variations and make choices accordingly. For example, if the cost of the same preventive

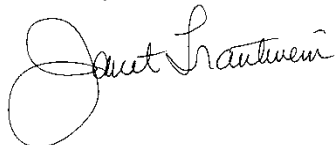
care service ranges from \$500 to \$2,000, depending on the provider, the employer or health plan may provide beneficiaries with price-transparency tools and then limit coverage of the preventive care service to \$1,000. If a beneficiary chose to receive similar services from a provider charging more than \$1,000 for this benefit, the cost difference would be his or her responsibility. Can this innovative model continue under the new regulations and, if so, can these types of approaches to care only continue under plans that are grandfathered and to services that are delivered on an out-of-network basis?

Furthermore, our membership would appreciate clarification that a group health plan will not become subject to the parity requirements of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA) merely because it provides a mental health or substance use disorder benefit in compliance with the regulations' recommended preventive services.

Finally, as you move forward with the implementation of the preventive services rules, we urge you to include the employer and health insurance community in the group determining the recommended preventive care mandates to be covered. Currently, the recommendations are being developed solely by health insurance providers and other health care professionals who do not necessarily have expertise in health plan design and administration. By including representatives of the insurance community and employer group health plans that must cover, administer and pay for these services in an advisory task force on preventive care benefits, along with medical providers and other health care advocates, you will be able to ensure that future recommendations for covered services be handled more easily and in a more cost-efficient way, which will only benefit health insurance consumers.

NAHU sincerely appreciates the opportunity to provide comments on the IFR and we look forward to working with you as implementation of PPACA moves forward. If you would like more information from NAHU, or if we can be of further assistance, please feel free to contact me at either (703) 276-3806 or jtrautwein@nahu.org.

Sincerely,

A handwritten signature in black ink that reads "Janet Trautwein". The signature is written in a cursive, flowing style.

Janet Trautwein
Executive Vice President and CEO
National Association of Health Underwriters