



September 21, 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-9993-IFC
P.O. Box 8016
Baltimore, MD 21244-1850

Re: Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Internal Claims and Appeals and External Review Processes under the Patient Protection and Affordable Care Act

Dear Secretaries Sebelius, Solis, and Geithner:

Thank you for the opportunity to comment on the impact of the proposed Appeals and External Appeals Regulations created under the PPACA. We are writing on behalf of the HEREIU Welfare Fund (The Fund), a Multiemployer Taft Hartley Fund, which provides health benefits for employees in the hospitality industry. We represent approximately 200,000 patients through our self-funded plan, with units in Las Vegas, Atlantic City, Chicago, New York, Pittsburgh, Peoria, and small pockets elsewhere in the country.

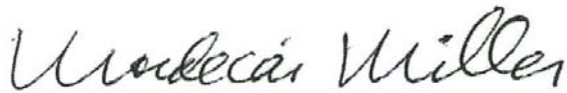
Our specific concerns and suggestions regarding the proposed Appeals regulations are outlined below:

- Adverse benefit determinations must be provided in a non-English language upon request if certain thresholds are met. Once request is submitted, all future notices must automatically be sent in the non-English language. The threshold of 500 Participants which triggers offering information in a language other than English are difficult to implement because:
 - We cannot easily identify which participants do not speak any English. We DO however, actively seek this information from Participants, and our claims system does track preferred language information, when we receive it. However, we cannot determine if English is not also spoken. Therefore, we suggest that the regulations allow materials to be sent in a second language in cases when we have received information selecting a secondary language preference, rather than the requirement that we identify all those that do not speak any English.
 - We are unable to validate if both the participant and their covered dependents require the same language information. Therefore, we would like clarification that in this case, the Participant is the eligible employee, not the eligible dependent.

- Our largest Fund, in Las Vegas, spent enormous time and effort 6 years ago re-designing EOB messages that would simplify the information greatly needed by Participants to better understand their care. In that process, we eliminated the CPT, diagnostic codes and other non-essential information about the claim. At this time, we also created a Spanish EOB. Both of these efforts have been much more successful in helping participants understand their care and their cost share, and allowed their appeal rights to be more prominently displayed than in the previous EOB. We respectfully request that new EOB content requirements be optional, and not require that our EOBs, once again, become cluttered, unreadable and impossible to understand.
- Urgent care decision timeframes are reduced from 72 to 24 hours. This is a concern because in smaller areas in several plans no medical expert is always available to review the request in a timeframe that short.
- Plans must now provide, free of charge, any new or additional evidence considered, relied upon, or generated in connection with a claim. The Fund already spends significant resources to track down Participants and Providers to gather the information needed to make sure the Participant is given every consideration in their appeal. We have found that this process can be a burden to Participants who we must communicate with. We suggest that this information, instead, be offered in a written letter to the Participant appealing, and then provided upon their request for this information.
- The requirement to contract with three separate IROs will result in the Fund spending new administrative time trying to manage these multiple contracts, which will decrease Plan efficiency.

Thank you for the opportunity to comment on the interim final rules. If we can be of any assistance, please contact Bobbette Bond at 702-892-7327 or bbond@culinaryhealthfund.org.

Sincerely,

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

Morty Miller, Chief Executive Officer