



October 20, 2011

Department of Labor
RIN 1210-AB52

Re: Comments on Proposed Summary of Benefits and
Coverage and the Uniform Glossary

Dear Department of Labor:

On behalf of my company, The J.P. Farley Corporation, and our clients, I would like to comment on the proposed Summary of Benefits and Coverage and the Uniform Glossary. J.P. Farley is a third party administration (TPA) of self-funded employer sponsored health benefit plans. We represent approximately 109 customers and 74,500 plan participants.

At J.P. Farley we are doing our best to comply with all of the requirements of PPACA and have ensured that our clients and their health plans remain compliant. We respectfully request the delay of the Summary of Benefits requirements for at least a year from the current date of March 23, 2012, as several significant issues remain unresolved and trying to meet the current deadline would add significant strain on all involved to ensure compliance once the final regulations are developed. Additionally, we request that these requirements become effective upon renewal of our groups.

Currently the terminology and requirements are designed for insured plans as they are stated in insurance company language. These regulations have not been created for self-funded employee benefit plans. More specifically, these requirements are used for individual insurance products and not group health plans. We understand the error as the NAIC works with state insurance departments, so the regulations were written with the fully-insured market in mind. However, more than 60% of employees in commercial benefits plans are covered by self-insured employee benefit plans. The state insurance departments do not generally have authority over self-funded benefit plans due to ERISA's preemption provisions.

The standardized definitions found in the Uniform Glossary (Glossary) will conflict with the governing plan documents and summary plan description language that our plans utilize. A change in the terminology will cause significant confusion and create the need to ultimately settle matters in court, which is an expensive and wasteful process. The Glossary also fails to require any reference to the governing plan document or summary plan description provisions. A potential solution to this matter is allowing a plan to place a location reference in the Glossary to the corresponding definition in their plan document.

An additional cause for concern is the specific definitions that must be included. ERISA plan sponsors are given the flexibility to shape their health benefit plans in a manner that suits the employer and satisfies their employees. Our current plan designs do not all utilize the Usual, Reasonable and Customary fees for determining the allowed amount under the plan. Our plans utilize other fee schedules, such as percentage of Medicare or cost plus fee schedules, in order to determine the allowed amount for out-of-network providers. Requiring our clients to use a Glossary with terms that do not apply to the plan would cause significant confusion in administering the plan as well as the plan participants understanding their benefits.



The Summary of Coverage Template (Template) is envisioned as a quick reference, shopping tool and not as a communication tool or guide to effectively utilizing the employee benefit plan. However, the Template may mistakenly be used by our participants as a guide to the benefit plan instead of a shopping tool, ultimately creating more confusion for plan participants.

The Template design does not properly apply to the self-funded industry. As stated before, self-funded employers are allowed the flexibility to customize their health benefit plans. A significant amount of time and man power would be needed to create the Summaries in their current format which will in turn place a significant financial burden on our clients. Many of our clients have multiple health benefit plans with varying levels of coverage, multiple tiers and multiple networks causing the amount of Summaries needed to increase exponentially. Some of these concerns may be resolved by creating a separate template to be used by the self-funded market.

Thank you for opportunity to improve the regulations to fit our industry. We want to continue to ensure our clients are all in compliance and appreciate your understanding that achieving compliance will take a significant effort. Please give us the opportunity to be in compliance by amending the regulations to fit the needs of the self-funded benefits industry. We look forward to a positive response to our suggestions.

Should you have any questions of me I may be reached at kdempsey@jpfarley.com or at (440) 250-4307.

Very Truly Yours,



Kelly E. Dempsey, Esq.
In-House Counsel