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Group Health Plans and Health Insurance Issuers Providing Dependent Coverage of Children to Age 26 under the Patient Protection and Affordable Care Act

Comment On: IRS-2010-0011-0001
Group Health Plans and Health Insurance Issuers Providing DependentCoverage of Children to Age 26, etc.

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Comment on FR Doc # 2010-11393

Submitter Information

Name: Jennifer C. Jaff
Address:
18 Timberline Drive
Farmington, CT, 06032
Email: patient_advocate@sbcglobal.net
Phone: 860-674-1370
Fax: 860-674-1378
Organization: Advocacy for Patients with Chronic Illness, Inc.

General Comment

See attached file(s)

Attachments

IRS-2010-0011-0005.1: Comment on FR Doc # 2010-11393

Advocacy for Patients with Chronic Illness, Inc.

18 Timberline Drive
Farmington, CT 06032
(860) 674-1370 (phone)
(860) 674-1378 (fax)
(860) 305-9835 (cell)
www.advocacyforpatients.org
patient_advocate@sbcglobal.net

June 3, 2010

VIA RULEMAKING PORTAL

CC:PA:LPD:PR (REG-114494-10)
Internal Revenue Service
PO Box 7604
Ben Franklin Station
Washington, DC 20044

Re: *Amendments to 26 CFR Part 54 Regarding Insurance Coverage of Children to Age 26*

Dear Sir/Madam:

Thank you for this opportunity to comment on draft regulations governing health insurance coverage of dependent children until age 26.

Advocacy for Patients with Chronic Illness, Inc. is a 501(c)(3) organization that provides free information, advice, and advocacy services to patients with chronic illnesses nationwide. Of particular relevance here, we assist people with chronic illnesses to find health insurance that covers their pre-existing conditions, and we file many insurance appeals for coverage of items that insurers believe either are not medically necessary, or are experimental or investigational. These comments are based on our experience of working with thousands of people with chronic illnesses who, by definition, have pre-existing conditions that make it very difficult to obtain insurance coverage.

We very much support the addition of Section 2714 of the Public Health Service Act by the Patient Protection and Affordable Care Act (PPACA). We believe that the regulations are consistent with Congressional intent to cover the broadest possible group of people who otherwise would have to find health insurance on their own at a time when they are students or are unemployed, just entering the workforce. Thus, we support the broad definition of "dependent" to include children who are not living with their parents, who are not financially dependent, who are students, or who are employed but not eligible for health insurance through an employer. It is our understanding, though, that Congress also intended to include, as a dependent, children who are married (although not their spouses). We would urge you to add language and/or an example to that effect.

Our primary concern, though, relates to the transitional rules found in subsection (f). The draft regulations provide that notice may be given to the employee. We would suggest that, especially if the employer's plan formerly covered the dependent and, thus, has an address for him or her, notice should go to the dependent, as well. Not all employees will convey this opportunity to dependents in the context of divorces and other family-altering events. If notice to the dependent is feasible, it should be required.

Second, and most importantly, the draft regulations state that the portability rules of HIPAA apply, and you have given several examples. What the draft regulations do not expressly address, though, is coverage of pre-existing conditions. In section (f)(5) example 1, the dependent has had a break in coverage of more than 63 days. Although the draft regulations make it clear that this dependent is eligible for enrollment, the draft does not state that the dependent's pre-existing condition is covered despite the break in coverage. This is not a hypothetical question; we already have fielded this question, and have been unable to find an unambiguous response. Thus, we strongly urge you to address this issue explicitly. It is our belief that Congress's intent was to construe these provisions broadly, and that the dependent's pre-existing condition should be covered when they re-enroll in their parent's plan. However, without clear language on this issue, you can expect disputes to arise.

Again, thank you for this opportunity to comment on these important regulations. We very much appreciate your consideration of issues that will affect the lives of the people with chronic illness whom we represent.

Sincerely,

Jennifer C. Jaff, Esq.
Executive Director