



**Testimony on
“Health Care Literacy”**

by

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for the

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I. Introduction

Madam Chair and members of the Advisory Council, I am Tom Wilder, Senior Regulatory Counsel for America's Health Insurance Plans (AHIP), which is the national association representing approximately 1,300 health insurance plans that provide coverage to more than 200 million Americans. Our members offer a broad range of health insurance products in the commercial marketplace and also have demonstrated a strong commitment to participation in public programs. AHIP's member health insurance plans provide insurance coverage to or administer health benefits for a significant majority of ERISA group health plan participants and beneficiaries.

We thank the council for holding hearings on the important issue of health care literacy, and we appreciate this opportunity to testify. Our members strongly support efforts to improve the ways health information is communicated to consumers by health plans and health care providers. Providing information to consumers that is easy to read, understand, and act upon is an essential component of improving health care access and quality for all Americans.

My testimony today will focus on three areas:

- AHIP's support of streamlined requirements for providing information to group health plan participants and beneficiaries through Summary Plan Descriptions (SPDs) and other notices;
- The efforts of AHIP's Health Literacy Task Force to develop tools and other resources to assist health plans in promoting better understanding of health information by consumers; and
- AHIP recommendations for improving health literacy.

II. Creating Effective Health Disclosures

According to a recent study, 43% of American adults read at a “basic” or “below basic” level.¹ In contrast, the readability level of many SPDs is significantly higher – in some cases between 9th grade and 16th grade (college graduate) reading levels.² Issues regarding the content and usefulness of SPDs were identified by the council in previous studies of health care literacy.³ Additional barriers to achieving health literacy arise in situations where the individual may have limited English proficiency.

A wide range of studies demonstrate the connection between health literacy and health outcomes including the impact on chronic conditions, use of preventive services, and access to health care.⁴ Consumers need to understand the health information that is communicated to them in order make the right decisions and take steps to promote optimum health. As a result, it is critical for all stakeholders to work together to improve the content and clarity of health information made available to consumers.

This disconnect between what consumers need to know and what they are told is in some respects a product of the legal and regulatory requirements for notices provided by group health plans to participants and beneficiaries. Federal laws, such as ERISA and the Health Insurance Portability and Accountability Act (HIPAA), state insurance codes, and the recently enacted “Patient Protection and Affordable Care Act” (ACA) include detailed consumer disclosure requirements for insurers and group health plans. In some cases, these laws may dictate the format, specific wording, and type size of the disclosures. In addition, both states and the federal government impose standards for communicating information to those individuals who are primarily proficient in a non-English language.

¹ *2003 Assessment of Adult Literacy*, National Center for Education Statistics, U.S. Department of Education, accessed at: http://nces.ed.gov/NAAL/kf_demographics.asp

² *How Readable Are Summary Plan Descriptions for Health Care Plans?*, Employee Benefit Research Institute, October 2006, accessed at: http://www.ebri.org/pdf/notespdf/EBRI_Notes_10-20061.pdf

³ *Report of the Working Group on Health and Welfare Benefit Plans' Communications*, ERISA Advisory Council, November 2005, accessed at: http://www.dol.gov/ebsa/publications/AC_1105c_report.html

⁴ *Literacy and Health Outcomes*, Agency for Healthcare Research and Quality, U.S. Department of Health and Human Services, January 2004, accessed at: <http://www.ahrq.gov/clinic/epcsums/litsum.htm>

We believe that all of these requirements must be tied together so that consumer disclosures are made simpler and easier to understand. As a start in this process, the ACA provision for the development of standard insurance definitions and a uniform Evidence of Coverage (EOC) document will provide consumers with useful and clear information on their benefits and the terms and conditions of coverage.

We support these efforts and believe that the creation of a standard EOC and uniform definitions will provide a platform for changes to the SPD and other notice requirements imposed by ERISA, HIPAA and other state and federal standards. We also applaud the efforts of the Department of Health and Human Services (HHS) in its National Plan to Improve Health Literacy to promote better communications between health care providers and patients, family members, and caregivers. Improving the quality of healthcare communications will lead to better care and improve access to coverage.

III. AHIP Health Literacy Assessment Tool

AHIP is strongly committed to improving health care literacy and has been working with a broad range of health professionals at health plans and the research community in support of these efforts. Over the past year, AHIP's Health Literacy Task Force worked with Emory University researcher Dr. Julie Gazmararian to develop an assessment tool allowing health plans to evaluate their health literacy programs. The health literacy tool, which was supported through a grant from the Robert Wood Johnson Foundation, addresses health plan oral and written communications including printed information, web portals, member services, and nurse call lines.

The Literacy Assessment Tool was distributed throughout our community along with core recommendations and tools to assist health plans in the design of literacy programs. These recommendations include developing plan wide policies and procedures and providing training to those who interact with consumers with the written or spoken word.

AHIP has scheduled educational in-person meetings and webinars to help guide plans through the process to create successful health literacy programs. In addition, the Health Literacy Task Force is continuing its meetings and outreach activities to help plans improve member services and communications.

As a result of the work that is being done to start up and advance health literacy programs, health plans across the country are applying the principles of clear health communication to the development and revision of documents; verbal interactions between consumers and customer service, disease management, case management, and nurse call line personnel; and web based communication. They are beginning to partner with other stakeholders who understand that that consumers' health and health care information come from a variety of sources and that all of the information must be clear and easy to act on.

IV. Recommendations for Improving Health Plan Communications

The Advisory Council has identified specific issues with respect to health care literacy that it intends to address in its report to the Secretary of Labor. AHIP would like to make the following recommendations for improving group health plan communications in response to the Council's questions.

A. Developing recommendations for changes to SPDs and other notices within the framework of the ACA.

As noted, the ACA requires the Secretary of Health and Human Services to develop standards for use by group health plans and health insurance issuers in providing applicants and enrollees with a standard EOC "that accurately describes the benefits and coverage under the applicable plan or coverage."⁵ The Secretary is directed to consult with the National Association of Insurance Commissioners (NAIC), consumer and patient advocacy organizations, and health care professionals in the development of

⁵ Section 2715(a) of the Public Health Service Act as amended by ACA Section 1001.

standards. The NAIC has formed the PPACA Uniform EOC and Uniform Enrollment Forms Subgroup to address standard explanations of coverage, standardized insurance definitions, and uniform enrollment forms. The subgroup has conducted a series of meetings and hearings over the past few months and is planning to complete its work this fall.

It is important that the new standards for EOCs and for uniform definitions be incorporated into any changes that may be made to SPDs or other ERISA required disclosures. Using different terminology or disclosure formats for EOCs and in the case of SPDs or other ERISA notices will result in confusion for plan administrators and for beneficiaries and participants. It is also critical for the Department of Labor (DOL) to be engaged in this process to make sure the required definitions and disclosures created by the NAIC and HHS include any specific ERISA related information such as the role and responsibilities of plan fiduciaries.

Recommendation:

We believe the DOL should work closely with the NAIC and HHS to ensure that the standard definitions and uniform EOC reflect fiduciary and other requirements imposed on group health plans by ERISA. We also recommend that experts in plain language and health literacy review the definitions and other disclosures to make certain they are easy to read and understand. Once the HHS completes its work as required by the ACA, the DOL should incorporate those standards, as appropriate, into revisions to the rules for SPDs and other notice requirements imposed on group health plans by ERISA (e.g., notices of adverse benefit determinations, COBRA disclosures, etc.).

B. Including consumer input in the process of developing disclosures.

A critical component of creating consumer notices and other disclosure materials is evaluating their effectiveness in real-world situations. For example, the AHIP Health Literacy tool was pilot tested in two phases by 18 health plans. The pilot tests provided

feedback on the ease of use and relevance of the tool, which was revised after testing to improve the usefulness. Similar efforts are needed to make sure that model forms such as SPDs and other required notices and disclosures can be easily understood and acted upon by consumers.

It is important that disclosures not be created in a vacuum, but instead be thoroughly tested using consumer focus groups and other mechanisms to make certain the materials clearly communicate and provide useful information to the intended audiences. This testing process must incorporate input from the different end-users including insurance policyholders and applicants, group plan beneficiaries and participants, seniors, and individuals with limited English proficiency. DOL should incorporate a testing phase into all future changes to required ERISA disclosures, including model SPDs and other disclosures.

Recommendation:

We believe that consumers must be closely involved with the process of developing disclosures including the opportunity for field-testing any materials such as SPDs, EOCs, and model notice documents before they are launched. The review process should solicit feedback from all intended user-audiences including seniors and individuals with limited English proficiency.

C. Addressing the needs of non-English speakers.

The ACA and other laws promote the use of “culturally and linguistically appropriate” disclosures intended to address the needs of individuals whose primary language is other than English. For example, the recently issued Interim Final Rule (IFR) for Internal Claims and Appeals and External Review Processes includes detailed requirements for providing notices in situations where group health plan participants and beneficiaries are non-English speakers.⁶ The ACA provisions are in addition to other federal and state

⁶ 29 CFR §2590.715-2719(e), 75 Fed. Reg. 43358, July 23, 2010.

requirements including HHS guidance for entities that receive federal financial assistance to provide language assistance to individuals with limited English proficiency⁷ and insurance code provisions and other state laws applicable to insurance carriers such as California requirements for health plans to provide language assistance services to their enrollees.⁸

The diversity of languages spoken by group health plan participants and beneficiaries raises a number of barriers to health care literacy that must be addressed. However, it is also important that any new regulations build on, and not conflict with, existing federal and state requirements. As noted, it is also critical that the field-testing of model notices and other disclosures include efforts to reach out to and include individuals with limited English proficiency.

Recommendation:

We believe that any efforts by DOL to revise SPD or other disclosure requirements must take into consideration the needs of individuals whose primary language is other than English. This effort should include appropriate pilot testing of all model documents and other materials by consumers with limited English proficiency. In addition, DOL requirements for “culturally and linguistically appropriate” notices should build on, and not conflict with, existing federal and state requirements for communications with non-English speakers.

V. Conclusion

Thank you for the opportunity to testify on efforts to ensure that communications by health plans to consumers are easily understood and provide information in a manner that improves health care access and quality. We look forward to continuing work with the ERISA Advisory Council on this important initiative.

⁷ See: 68 Fed. Reg. 47311, August 8, 2003.

⁸ Title 28, California Code of Regulations. Division 1, Chapter 2, Article 7, Section 1300.67.04: Language Assistance Programs. July 26, 2006.