



August 6, 2010

Jim Mayhew
Office of Consumer Information and Insurance Oversight
Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW.
Washington, DC 20201

Attention: OCIO- 4150-IFC

Dear Mr. Mayhew:

The American Academy of Pediatrics (AAP) and the Society for Adolescent Health and Medicine (SAHM) appreciate this opportunity to submit comments regarding the interim final rules for Group Health Plans and Health Insurance Issuers Relating to Dependent Coverage of Children to Age 26 (45 CFR Parts 144, 146, and 147, 26 CFR Parts 54 and 602, 29 CFR Part 2590). AAP is a non-profit professional organization of 60,000 primary care pediatricians, pediatric medical sub-specialists, and pediatric surgical specialists dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults. SAHM is a multi-disciplinary organization of health professionals committed to advancing the health and well-being of adolescents and young adults through education, research, clinical services, and advocacy.

We applaud much of the regulation, but note that there are certain individuals (those who are stepchildren, adopted children or receiving kinship care) who may have been inadvertently excluded. Additionally, some of the uncertainty surrounding coverage for young adults from their employers and otherwise could be better defined. We recommend that notice of the new benefit for covering young adults be more prominent, and therefore more effective. Finally, enforcement authority for these provisions appears to be missing from the regulation. The Academy and SAHM would urge that enforcement must be available for the provisions in the regulation to reform the status quo.

Thank you very much for your attention to the views of the American Academy of Pediatrics and the Society for Adolescent Health and Medicine.

Sincerely,

Handwritten signature of Judith S. Palfrey in black ink.

Judith S. Palfrey, MD, FAAP
President
American Academy of Pediatrics

Handwritten signature of Lawrence J. D'Angelo in black ink, with "MD, MPH, FSAHMA" written in smaller text to the right.

Lawrence J. D'Angelo, MD, MPH
President
Society for Adolescent Health and Medicine

Dependent Coverage of Children to Age 26 (45 CFR Parts 144, 146, and 147, 26 CFR Parts 54 and 602, 29 CFR Part 2590)

The American Academy of Pediatrics (the Academy) is dedicated to the health of all children. The Academy has also adopted Principles and issued policy statements that call for insurance coverage for all. The Academy's Access Principles state, "Quality health insurance should be a right, regardless of income, for every child, pregnant women, their families, and ultimately all individuals."¹ In addition, the Academy's Principles of Child Health Financing state, "All children and pregnant women have a right to comprehensive health care that is fully portable and ensures continuous coverage."²

The Society for Adolescent Health and Medicine (SAHM) is strongly committed to the health and well-being of all adolescents and young adults. In 2009 SAHM adopted a set of principles for health care reform.³ These principles strongly support health insurance coverage for all adolescents and young adults.

Based on these positions, the Academy and SAHM are strongly in support of many of the aspects of the Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Dependent Coverage of Children to Age 26 (the Age 26 Regulation). In particular, the Age 26 Regulation has a broad definition of dependent. This definition will allow young adults to join their parents' plan without regard to their residency status, their financial dependence, or whether they attend school. This definition furthers the clear intention of the Affordable Care Act to increase health coverage by ensuring that a large number of previously uninsured young adults can obtain insurance. Moreover, the prohibition on varying dependents' premiums with age is consistent with the law's other provisions limiting discrimination in the health insurance market. This policy makes it clear that its intent is to cover young adults in an affordable way.

Based on the intent of the Affordable Care Act and policy supported by the Academy and SAHM, the Academy and SAHM would urge modifications to the Age 26 Regulation to specifically include stepchildren, adopted children, and kinship care. If these groups are not included, many young people will be left out of the benefits of the Age 26 Regulation. A 2004 survey identified an estimated 5.5 million stepchildren in the United States in 2004, as well as an estimated 1.5 million adopted children. There are strong policy reasons for their specific inclusion, including the fact that Sec. 152 of the US Tax Code explicitly includes step/adopted children in the definition of dependent and that ERISA prohibits discrimination against adopted children for dependent coverage. Additionally, as grandparents often have private coverage wrapping their Medicare coverage, including coverage for grandchildren to age 26 in what those plans may be required to cover should help reach the growing population of children care for by grandparents.

Additionally, the Academy and SAHM would urge the Departments to clarify some of the contours of the regulation for young adults with Employer Sponsored Insurance. For instance,

¹ See <http://www.aap.org/advocacy/washing/mainpage.htm>.

² See <http://aappolicy.aappublications.org/cgi/reprint/pediatrics;112/4/997.pdf>.

³ See A. English et al. Health Care Reform and Adolescents—An Agenda for the Lifespan: A Position Paper of the Society for Adolescent Medicine. *J Adolesc Health* 2009; 45:310–315

it is unclear whether grandfathered parent plans must consider so-called “mini-med” or catastrophic coverage as qualifying insurance. These plans are frequently purchased by young adults due to cost constraints. The Academy and SAHM would urge the Department to err on the side of enacting access to insurance with more than minimal coverage for the young adult population, and thus allow some flexibility in qualifying insurance based on whether insurance packages for young adults include the Essential Benefits outlined in the Affordable Care Act. If they do not, we would respectfully suggest that they should not be considered insurance capable of disqualifying the young adult from enrolling in their parents’ plans.

Additionally, the Academy and SAHM would urge that young adults with waiting periods for enrollment in their employers’ insurance should be granted the option of remaining on the plans of their parents. This could be accomplished by defining “eligible to enroll” in the child’s employer’s plan to exclude the waiting period common in plans available to young adults. The Academy and SAHM would also urge the Departments to address whether young adults with employer plans containing pre-existing condition exclusions are eligible for coverage by their parents’ plans. If this is not done, a young adult may be “eligible to enroll” in employer coverage but be denied insurance coverage. The Departments should set forth rules that if an employer denies coverage for a young adult, that young adult should have access to his or her parents’ insurance plan. Additionally, the Academy and SAHM would urge the Departments to allow for open enrollment periods for young adults who lose their jobs. We urge you to consider a policy solution for gaps in coverage for young adults losing employer coverage who may exhaust COBRA benefits. Perhaps a loss of coverage by the young adult could lead to a specific open enrollment period or a qualifying life event for coverage to accrue on the parents’ insurance. Overall, the Academy and SAHM would urge the Departments to provide employers with clear guidelines regarding whether a young adult has real access to insurance.

The Academy and SAHM also urge the Departments to make the Notice of the new benefit of coverage for young adults effective. Mailed documents can get lost or ignored, and we would urge that insurers be required to conduct multiple levels of outreach to explain the new benefit to families. Additionally, the Academy and SAHM would urge the Departments to consider whether the Notice could constitute an add-on to notices required by COBRA in the case of an individual leaving employment. We would also urge the Departments to track the effectiveness of the Notice by looking to how many families actually take up the option to extend coverage to their young adults. In this oversight, it should be noted that some transient populations may be less connected to written notice and internet fact sheets. We would further urge that outreach and education campaigns reach college campuses, leading consumer/parents groups like the AARP, and would suggest that transitional guidance counselors in colleges and human resources departments be made aware of the new law.

Finally, the Academy and SAHM would urge that you give strong consideration to the enforcement of the Age 26 Regulation. As with the grandfather regulation, the notice to families outlined in the interim final rule is a good first step, but it relies heavily on individuals to monitor the practices of their employers and insurers. We encourage the Departments to work closely with states to develop monitoring and enforcement mechanisms to verify effective implementation of the Age 26 Regulation.