



**National
Business
Group on
Health**

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Creative Health Benefits Solutions for Today, Strong Policy for Tomorrow

September 30, 2011

Submitted electronically via: www.regulations.gov

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
Room N-5653
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
Attention: RIN 1210-AB44

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9992-IFC2
P.O. Box 8010
Baltimore, MD 21244-8010

CC:PA:LPD:PR (REG-120391-10)
Room 5205
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act

Dear Sir or Madam:

The National Business Group on Health is pleased to comment on the amendments to the interim final regulations implementing the Patient Protection and Affordable Care Act's (Affordable Care Act's) requirements for coverage of women's preventive services, as set forth in the Health Resources and Services Administration's Women's Preventive Services: Required Health Plan Coverage Guidelines (HRSA Guidelines).

The National Business Group on Health represents approximately 330 primarily large employers, including 67 of the Fortune 100, who voluntarily provide health benefits and

other health programs to over 55 million American employees, retirees, and their families.

The National Business Group on Health supports the goal of encouraging plan participants to regularly receive evidence-based preventive care. Many employers, as group health plan sponsors, voluntarily offer first-dollar coverage of preventive services to employees and their dependents and often provide coverage for preventive services beyond those recommended by the U.S. Preventive Services Task Force and other government agencies when clinical and medical evidence warrants such coverage. Our members know that preventive care can dramatically reduce the incidence, health care demands, and long-term cost burdens of chronic conditions and acute illness and can help to keep people healthier, longer.

As our members prepare for implementation of the Affordable Care Act's preventive services coverage requirements, however, a primary concern will be plans' ability to maintain plan features designed to promote use of higher-value providers, treatments, and services. Such plan features are consistent with the Departments' support of value-based insurance design and would allow plan sponsors to devote more resources toward maintaining and improving health benefits for their employees. **Therefore, the National Business Group on Health supports, with respect to women's preventive services in the HRSA Guidelines, allowing plan sponsors flexibility to adopt and maintain cost-sharing structures designed to encourage use of high-value treatments and services (e.g., prescription drug formularies).**

The National Business Group on Health believes that allowing plans such flexibility will reduce plan costs while encouraging use of high-value, evidence-based preventive care for women. We provide further discussion of our recommendations below.

I. Contraceptive Methods and Counseling

While the National Business Group on Health generally supports having no cost-sharing for evidence-based preventive services, a blanket prohibition on cost-sharing for all Food and Drug Administration (FDA) approved contraceptive methods and sterilization procedures could substantially increase plan costs while providing minimal benefit for plan participants. For example, the FDA has approved a large number of prescription and non-prescription contraceptives, but many of these contraceptives are very similar. In addition, many brand-name prescription contraceptives are available in generic form. As a part of prescription drug coverage, many group health plans have adopted prescription drug formularies that provide coverage for contraceptives at different cost-sharing levels (e.g., zero or low copayments for generics and higher copayments for brand-name prescriptions). These formularies allow plans to encourage use of high-value, effective (and lower-cost) contraceptives while allowing plan participants access to a wide variety contraceptive options. Requiring plans to cover all FDA-approved contraceptives without cost-sharing would, with respect to contraceptives, effectively eliminate formularies, which have proven to be a highly effective tool for controlling plan costs. Thus, such a

requirement could substantially increase plan costs while merely expanding an already-large array of contraceptive options, many of which are very similar. The same analysis applies with respect to FDA-approved sterilization procedures. Therefore, the National Business Group on Health recommends allowing group health plans to maintain cost-sharing structures (such as prescription drug formularies), as applied to contraceptive methods and sterilization procedures, provided:

- Group health plans provide access, without cost-sharing, to a reasonable range of FDA-approved contraceptives and sterilization procedures and
- These cost-sharing structures are consistent with value-based insurance design.

We believe such a rule would be consistent with the Departments' goals of encouraging both evidence-based preventive care and value-based insurance design.

Finally, we note that while the HRSA Guidelines apply only to women's preventive services, the Guidelines' reference to all FDA-approved contraceptive methods and sterilization procedures may cause confusion as to whether a group health plan must provide coverage, without cost-sharing, for sterilization procedures for men. We recommend clarifying that the HRSA Guidelines only require coverage, without cost-sharing, of treatments and services for women.

Thank you for considering our recommendations on the amendments to the interim final regulations implementing the requirement for coverage of women's preventive services. We look forward to working with you as you continue to implement the various provisions of the Affordable Care Act. Please contact me or Steven Wojcik, the National Business Group on Health's Vice President of Public Policy, at (202) 558-3012 if you would like to discuss our comments in more detail.

Sincerely,



Helen Darling
President