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Office of Health Plan Standards and Compliance Assistance  
Employee Benefits Security Administration  
US Department of Labor  
Washington, DC 20210

Dear Sir/Madam:

Thank you for the opportunity to comment on the rules relating to internal claims and appeals and external review processes that apply to group health plans and health insurance issuers offering coverage in the group and individual markets (RIN 1210-AB45). Our recommendation focuses on the 10 percent threshold for translation and oral interpretation of private plan materials in internal reviews and appeals.

Community Catalyst is a national advocacy organization that has been giving consumers a voice in health care reform for more than a decade. We provide leadership and support to state and local consumer organizations, policymakers and foundations that are working to guarantee access to high quality, affordable health care for everyone. We focus our efforts on helping the most vulnerable consumers, including those that have low incomes, come from communities of color, and/or have difficulty speaking or understanding English.

Translation and interpretation of materials in the health insurance context is critical because almost 20 percent of the United States' population speaks a language other than English at home. Over 28 million people are considered limited English proficient (LEP) for health care purposes. This includes: 47 percent of Spanish speakers, 33 percent of speakers of other Indo-European languages, 49 percent of speakers of Asian and Pacific languages and 30 percent of speakers of other languages<sup>1</sup>. Lack of language services limits the amount and quality of care LEP individuals receive. Similarly, lack of translation and interpretation of materials regarding review and appeal of coverage decisions limits the ability of LEP individuals to get help if they are denied appropriate or needed health services.

Federal law requires group health plans and health insurance issuers to provide relevant notices in a culturally and linguistically appropriate manner. The new proposed standard for when plans must provide translation of documents or oral interpretation of policies -- 10 percent of a county population -- fails to recognize the needs of millions of LEP individuals covered by private insurance.

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<sup>1</sup> [2005-2009 American Community Survey 5-Year Estimates: S1601. Language Spoken at Home](#)

According to the data in Table 2 of the rules (pages 37221 - 37224),

- Only 255 out of 3,143 counties meet this 10 percent threshold and would require translated materials.
- The majority of Spanish speakers in the country are left out as only 172 counties meet the 10 percent county population threshold for Spanish.
- The proposed 10 percent threshold for translation of vital documents is met by Chinese in only one county in California, Navajo in only three counties nationwide, and Tagalog in only two counties in Alaska. People speaking many other languages will not be guaranteed translated materials under this new rules.
- Only one county in the entire nation, the Aleutians West Census Area in Alaska (with a total population of 5,505 people), would have translations in more than one language: Spanish and Tagalog.

We believe the 10 percent standard is far too high, and leaves out many individuals who may receive marketing materials and calls, but will not be able to access plan review and appeals under the new rules. **Therefore, a more appropriate standard for *written translation* would be 5 percent of a plan's participants or 500 people in a plan's service area for large group plans, and 25 percent of plan participants for small groups.**

Moreover, rulings in civil rights cases have confirmed that civil rights law mandates that oral interpretation be provided for all languages in health settings and health insurance contexts. **We urge you to require all private group plans to provide *oral interpretation* in all languages at all times.**

The standards we propose would be more likely to enable people with limited English proficiency to appropriately access reviews and appeals as needed.

We greatly appreciate the opportunity to weigh in at this stage. We stand ready to provide any additional information that is needed. Please contact Deputy Policy Director Alice Dembner at 617-275-2880 or [adembner@communitycatalyst.org](mailto:adembner@communitycatalyst.org) with any questions.

Sincerely,



Robert Restuccia  
Executive Director