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October 21, 2011

Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Attention: CMS-9982-P
P.O. Box 8016
Baltimore, MD
21244-1850

Dear Ladies and Gentlemen:

On behalf of the 3.2 million members of the National Education Association (NEA), I am pleased to provide comments on Proposed Rules for both the Summary of Benefits and Coverage and the Uniform Glossary and the Templates, Instructions and Related Materials (proposed rules) published by the Departments of Health and Human Services, Labor and Treasury in the Federal Register on August 22, 2011 (76, Fed. Reg. Vol. 76, No. 162). The proposed rules implement a new section of the Public Health Services Act (PHSA), Section 2715, created by the Patient Protection and Affordable Care Act (ACA).

NEA members include public education employees who work in the pre-K to grade 12 public schools, community colleges and higher education settings. NEA applauds the efforts of the three agencies as they set out to implement the ACA. NEA has long supported health care reform efforts that would provide access to affordable, high quality, and comprehensive health care coverage for all Americans, adults and children alike, while, at the same time, working towards improving the U.S. health care delivery system and reducing costs.

Adults who have access to primary care providers and preventive services have a greater opportunity to lead healthier and more productive lives. Insured adults, in general, tend to seek out primary and preventive services for their children as well. As a result, insured children tend to be healthier and come to school ready to learn.

NEA believes that the proposed rules, which standardize the content and appearance of health plan information by utilizing a Summary of Benefits and Coverage (SBC) and a Uniform Glossary, will be of tremendous assistance to consumers. These tools will help consumers understand what benefits are covered and will help them shop for and compare health plan offerings.

By way of background, NEA member health plans are, generally, non-federal governmental health plans governed by the Public Health Service Act and state health insurance law. NEA

member health plan benefits may be collectively bargained or determined by employers or state legislators with or without employee participation in deciding benefit and coverage levels.

NEA's comments on the SBC and Uniform Glossary proposed rules focus on three issues: the 30-day prior notice requirement, the 60-day advance notice standard, and the uniform glossary provisions.

1) Problems with providing the SBC no later than 30 days prior to the first day of the new policy year for a plan renewal or reissuance

NEA applauds the agencies in their efforts to provide the SBC no later than 30 days prior to the first day of the new policy year for a plan renewal or reissuance. This requirement serves to protect consumers and make the benefits and coverage levels of plans accessible in a timely manner. However, we wanted to alert the agencies of circumstances in which this requirement might be unrealistic and, in some cases, impossible for health plans covering NEA members to meet. In Colorado, for example, health insurers and stop loss carriers are required by state law to provide initial premium renewal information at least 30 days in advance of the plan renewal. If a premium renewal is received 30 days in advance of the renewal and benefits decisions are made based on the renewal information, it is likely that the SBC will not be received by plan participants 30 days prior to the first day of the new policy year.

Also, in many locations, depending on when the collective bargaining agreement (CBA) is finalized, the preparation and distribution of health plan materials for the upcoming year often occurs immediately before or shortly after the first day of the new policy year. For example, school districts in Iowa must complete bargaining by May 31. Changes to the health plan year go into effect on July 1. If, for example, the collective bargaining agreement is not ratified until June 15, it would be impossible for the plan administrator to meet the 30-day requirement. NEA is concerned that failure to make this deadline could result in benefit changes being omitted from plan materials, a risk of erroneous claims processing and, potentially, inaccurate out-of-pocket spending for plan participants.

Because of the nature of changes made to health plans through the collective bargaining process, NEA recommends that the final regulation include a process that would ensure that once a bargaining agreement is ratified, that those changes will be "deemed" to be included in the SBC. In such cases, the regulation could include a requirement that an SBC be sent no later than 30 days after the ratification of the new CBA or no later than 30 days before the new plan year begins, whichever is later. NEA also recommends that the final regulation build in flexibility for insured plans where state law requirements for distributing premium renewals would make it impossible for a plan to meet the 30-day requirement.

2) Concerns about providing notice of mid-year material changes to the SBC not later than 60 days prior to the date on which such modification will become effective

The Departments invited comments on the expedited notice requirement, including whether there are any circumstances where 60-day advance notice might be difficult.

NEA recognizes the importance of the agencies' efforts to ensure that plan sponsors provide a notice of mid-year material changes to the SBC no later than 60 days prior to the date on which such modification will become effective. Similar to the 30-day requirement, this provision also serves to protect consumers and makes the benefits and coverage levels of plans accessible in a

timely manner. However, we wanted to alert the agencies of circumstances in which this requirement might be unrealistic and in some cases impossible for health plans covering NEA members to meet.

In instances where a CBA is completed mid-year and significant changes are made to the SBC, it would not be realistic for a revised SBC to be available for distribution to enrollees of the plan 60 days prior to the effective date of the change. NEA is concerned that failure to make this deadline could result in benefit changes being omitted from plan materials, a risk of erroneous claims processing and, potentially, inaccurate out-of-pocket spending for plan participants.

Because of the nature of changes made to health plans through the collective bargaining process, NEA recommends that the final regulation include a process that would ensure that once a bargaining agreement is ratified, that those changes will be “deemed” to be included in the SBC. In such cases, the regulation could include a requirement that a notice of mid-year changes to an SBC be sent no later than 60 days after the ratification of the new CBA.

3) Uniform Glossary

The Departments invited specific comments on the Uniform Glossary, including the content of the definitions and whether there are additional terms that are important to include in the Uniform Glossary so that individuals and employers may understand and compare the terms of coverage and the extent of medical benefits.

NEA believes that the Uniform Glossary required under the ACA for distribution with the SBC will be a great tool to help consumers understand the benefit and coverage provisions of their health plans. However, we are concerned that some consumers will receive glossaries from their insurer, as required under state law, and a separate Uniform Glossary as required under federal law. This could result in confusion for the plan participant especially if the definitions of terms differ.

NEA requests that the final rule address how the Uniform Glossary should be utilized by insured health plans that must also follow state law health plan glossary requirements that in many cases go beyond the scope of, or vary from, those required under the proposed rules. The goal should be to ensure that definitions of terms in the ACA-mandated glossary do not contradict appropriate definitions in state-mandated glossaries.

Thank you again for all your hard work and for clarifying the above issues for NEA members and their health plans. We anxiously await your responses to these comments.

Sincerely,



Carolyn York
Manager, Collective Bargaining and Compensation