

October 21, 2011

Submitted Via Federal Rulemaking Portal: <http://www.regulations.gov>

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9982-P; CMS-9982-NC
Baltimore, MD 21244-1850

**RE: Proposed Rules for Summary of Benefits and Coverage and the Uniform Glossary
(CMS-9982-P); Templates, Instructions, and Related Materials (CMS-9982-NC)**

Dear Sir or Madam:

HR Policy Association (“HR Policy”) appreciates the opportunity to provide some brief comments in response to the Notice of Proposed Rulemaking (NPRM) on the Summary of Benefits and Coverage and the Uniform Glossary, 76 Fed. Reg. 52442 (Aug. 22, 2011), and the Templates, Instructions, and Related Materials, 76 Fed. Reg. 52475 (Aug. 22, 2011) for group health plans and health insurance coverage in the group and individual markets under the Patient Protection and Affordable Care Act (PPACA; Public Law 111-148).

HR Policy Association represents the chief human resource offices of more than 330 of the largest employers in the United States. Collectively, their companies employ more than 10 million employees in the United States, nearly nine percent of the private sector workforce. Together the member companies spend more than \$80 billion annually providing health insurance to tens of millions of American employees, their dependents and retirees. As the senior human resource executive for their companies, HR Policy Association members play a lead role in health care strategy, design, and implementation, and they are responsible for health care strategy, design, and the implementation of changes required by PPACA.

Introduction

Association member companies, most of which sponsor large group health plans, have long provided summary information to plan enrollees and participants. Section 2715 of the Public Health Service Act (PHSA), as added by the Patient Protection and Affordable Care Act (PPACA), requires that plan sponsors provide a Summary of Benefits and Coverage (“SBC”). The SBC is intended to provide participants and enrollees with a short summary of the benefits and coverage offered under the various plan options as well as to provide advance notification of any material changes in plan coverage. Though the intentions behind the provision are commendable and making health plans easier to understand and compare is an important

function, the costs to employers cannot justify these reforms because the information required by § 2715 (along with the implementing regulations as proposed in the NPRM) is largely duplicative of information that large group health plans already provide to plan participants and enrollees.

Thus, requiring large group health plans to comply with all of the proposed requirements set forth in the NPRM will increase the administrative costs and burdens without providing a corresponding benefit to participants and enrollees. Consequently, the Association recommends that the Agencies reconsider much of the NPRM with an eye towards granting as much flexibility as possible to large group health plans.

Effective Date for Group Health Plans Should Be Delayed 18 Months

The most immediate concern is the proposed compliance date of March 23, 2012. The PHSA § 2715 required the Agencies to develop the standards for the summary of benefits and coverage no later than March 23, 2011, with the idea that health plans could begin issuing the summaries after March 23, 2012. While the Agencies did not meet their statutory deadline, the NPRM nevertheless would require plans to meet the March 23, 2012 deadline even though it is very possible that the NPRM would not be finalized by then.

The new SBC requirements will require significant changes to the plan systems and administration of large group plans and there is simply no realistic way that such plans can meet this deadline, particularly given that the regulations may not be finalized by that date. Given the lack of time, and the tremendous undertaking it will be for plans to comply with all of the requirements, the Association requests that the Agencies issue guidance clarifying that the PHSA § 2715 deadline of March 23, 2012 will not apply. Notification of a delayed effective date should be communicated immediately so plans do not unnecessarily expend resources. HR Policy requests the Agencies to provide large group health plans a minimum of 18 months following the final rule to implement the new requirements.

Safe Harbor for Large Group Plans

Because, as noted above, the information required by the SBC is largely duplicative of information, which large group health plans are currently providing to participants and enrollees in a summary form, the Agencies should include in a final rule a safe harbor that permits employers to continue using their summary plan materials so long as the materials contain the information required under PHSA § 2715. Such a safe harbor for large group plans would afford the necessary flexibility allowing employers to utilize tools and disclosures (including online applications) that are currently used to communicate and explain benefit options and still supply the information required by the statute.

Large employers have significant experience in providing materials that explain plan coverage and options. Indeed, employer sponsored plans have led the way in providing innovative communications to plan participants to assist them in making enrollment decisions. Mandating the use of a standardized form for each plan option could be very costly, providing no real benefit to plan participants and enrollees and may actually confuse or mislead employees about their options.

Flexibility on Uniform Glossary

The Uniform Glossary proposed by the NPRM would define terms frequently used in health plans in an attempt to help individuals understand the content of the SBC. HR Policy is in favor of making health plans easier to understand and compare. However, there is significant concern that the definitions and terminology provided in the Uniform Glossary will conflict with the definitions used by self-insured plans in plan documents. Again, employers sponsoring large group health plans already engage in such practices consistent with their own plans in summary plan descriptions and enrollment materials. The customized nature of definitions and terminology in self-insured plans has the strong possibility of conflicting with the terms and definitions included in the Uniform Glossary thereby creating more confusion.

The Association requests that self-insured large group plans be permitted to include a statement in the SBC making it clear that the terms included in the Uniform Glossary may not reflect the terms of the health plan. In addition, the Association requests that plan sponsors be permitted to remove terms from the Glossary that are not applicable to the specific plan.

Expansion of E-Delivery Methods

The Association requests an expansion of the Department of Labor's safe harbor standards for e-delivery of the SBC. While some employees may not regularly access emails as part of their jobs, almost all have access to the internet and employers should be permitted to disseminate the SBC information through an online enrollment tool. Permitting an enhanced online delivery ability would be more efficient and could reduce some employer costs. Moreover, the Agencies have been given the authority in § 2715 to develop an electronic delivery rule that is more suited to today's technological resources.

The Coverage Examples Sheet

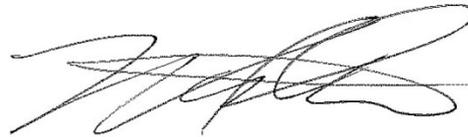
The Association recommends allowing large group health plans flexibility in forming the Q&As provided with the Coverage Examples Sheet. The provided examples for the Q&A may not apply to the plans offered by an employer. For example, one question reads "Are there any costs I should consider when comparing plans?" The answer to that question suggests that the employee consider the costs of HRAs. However, not all employers offer HRAs. This could lead to confusion among plan participants and enrollees.

The Coverage Example Sheet requires employers to provide information under the “You Pay” section to help current and potential plan participants understand the potential out of pocket costs of the plan. The Association request that large group employer plans be permitted to include just the total annual deductible as part of that information, since trying to calculate the exact amount already spent towards deductible would be an enormously burdensome task due to delays in billing and coordination with TPAs.

* * *

We appreciate the opportunity to comment on the NPRM.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Peterson", written in a cursive style.

Michael Peterson
Vice President, Benefits & Employment Policy
Associate General Counsel
HR Policy Association