

**America's Health
Insurance Plans**

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March 10, 2008

Office of Regulations and Interpretations
Employee Benefits Security Administration
Attn: 408(b)(2) Hearing
Room N-5655
U.S. Department of Labor
200 Constitution Avenue, NW
Washington DC 20210

Submitted Electronically

Dear Sir/Madam:

America's Health Insurance Plans (AHIP) is writing to request the opportunity to testify at the hearing scheduled March 20, 2008 regarding the Proposed Rule issued by the Department of Labor, Employee Benefits Security Administration on Reasonable Contracts or Arrangements Under Section 408(b)(2) – Fee Disclosure. The Proposed Rule was published in the *Federal Register* on December 13, 2007 and the Notice of Hearing was released on February 27, 2008. An outline of our proposed testimony is attached.

AHIP is the national association representing nearly 1,300 health insurance plans providing coverage to more than 200 million Americans. Our members offer a broad range of products in the commercial marketplace including health, long-term care, dental, vision, disability, and supplemental coverage. Almost all of AHIP's members provide insurance coverage to or administer benefits on behalf of employee health and welfare benefit plans.

AHIP previously filed comments with the Department of Labor and we appreciate the opportunity to provide additional input with regards to this important issue. Please feel free to contact me at (202) 778-3255 or twilder@ahip.org if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Thomas J. Wilder". The signature is written in a cursive, slightly slanted style.

Thomas J. Wilder
Senior Regulatory Counsel

Encl.

AMERICA'S HEALTH INSURANCE PLANS

Hearing on Reasonable Contracts or Arrangements Under Section 408(b)(2) – Fee Disclosure

United States Department of Labor Employee Benefits Security Administration

March 20, 2008

Testimony Outline

The following is an outline of the testimony that America's Health Insurance Plans will provide to the Department of Labor, Employee Benefits Security Administration at its hearing on the Proposed Rule on contracts or arrangements between the fiduciaries of employer benefit plans and service providers. The Department of Labor released a Proposed Rule regarding such contracts or arrangements in the *Federal Register* on December 13, 2007. The timing of each segment of our testimony is also indicated.

- I. The Proposed Rule should be revised to more adequately address the unique needs of health and welfare plan fiduciaries. (5 minutes)
 - A. The Department of Labor has not identified specific issues or concerns with respect to disclosures that are made to fiduciaries of ERISA health and welfare plans and it is not apparent what additional information is needed to assist plan fiduciaries in negotiating contracts or agreements with service providers. The Department should fully investigate what additional information may be needed fiduciaries of health and welfare plans and develop disclosure requirements that directly respond to potential gaps in transparency.
 - B. The Department of Labor should clarify that the Proposed Rule is not applicable to arrangements by health insurance carriers to sell fully-insured benefits to an ERISA health and welfare plan. In a fully-insured arrangement, the insurance carrier, and not the ERISA plan, bears the full risk and the price paid for coverage (the premium) is not related to services provided to the plan fiduciary in the administration of plan assets.
 - C. Application of the Proposed Rule to fully-insured arrangements is inconsistent with existing state oversight and disclosure requirements currently imposed by the Department of Labor such as the Form 5500 reporting requirements.
 - D. To the extent that additional disclosures may be necessary, the Proposed Rule should focus on the services that entities provide to self-funded ERISA health and welfare plans in connection with the administration of plan assets.

- II. The marketplace for administrative services provided to self-funded ERISA health and welfare plans is highly competitive and significant transparency already exists. (5 minutes)
 - A. As noted by the Federal Trade Commission in their many analyses of the health care marketplace, a high degree of competition already exists which results in a transparency in the provision of services. Fiduciaries of self-funded health and welfare plans are typically larger employers that have a variety of entities competing to provide third party administrative services to the ERISA plan.
 - B. The highly competitive market results in better services for and lower prices paid by self-funded plans for administrative services provided by third-party vendors.
 - C. The Proposed Rule should not interfere with this highly-competitive marketplace. In some cases, disclosure of highly sensitive market information is by its very nature anti-competitive which is harmful to the best interests of the beneficiaries and participants of the ERISA health and welfare plan.