

From: [Wiggins, Kevin A.](#)
To: [FRSA_F_OHPSCA_FRSA](#)
Subject: RIN 1210-AB11 - Comments on Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Dependent Coverage of Children to Age 26 under the Patient Protection and Affordable Care Act
Date: Monday, June 07, 2010 1:37:19 PM

Ladies and Gentlemen:

I am submitting these comments on my personal behalf and not on behalf of any other person or entity.

I would like first to give thanks to everyone involved in issuing the captioned interim regulations. You all did a wonderful job.

1. With respect to the substance of the regulations, the regulations should be amended to clarify whether the new Section 2714 of the PHS Act, as added by the Affordable Care Act (and amended by the Reconciliation Act), and as incorporated into other statutes (hereafter, "PHS Section 2714") would permit a plan to exclude future dependents but continue to cover existing dependents. For example, could a plan be amended to provide that an individual who is not a child of a participant on January 1, 2011 shall not be eligible for dependent coverage but that anyone who is or was a child of a participant prior to January 1, 2011 and who otherwise qualifies as a dependent (that term being defined in compliance with PHS Section 2714 and the regulations thereunder) shall be eligible for dependent coverage?

2. Similarly, can a plan condition an individual's eligibility for dependent care coverage by reference to whether the individual is a dependent as of a certain date or event? Prior to the enactment of PHS Section 2714, some retiree health plans would cover an individual who is a dependent of a participant who retires only if the individual is a dependent of a retiree on the date of the participant's retirement. The regulations should continue to allow this practice. Thus, for example, an individual who is born after the date of a participant's retirement would not be eligible, but any person who is the participant's child under age 27 at the date of the participant's retirement would be eligible.

3. Is an adult child who is covered under another employer's group health plan through COBRA, e.g., the child has terminated employment and is now on COBRA, eligible for coverage under a parent's group health plan while the child remains on COBRA?

4. The term "child" should be clearly defined. In adopting a definition, the agencies should consider the following:

- Children of Domestic Partners;
- Children who are born to a participant who is acting as a surrogate mother for another party, whether for a fee or otherwise - should the plan of the surrogate mother be required to cover the child, the plan of the legal parents, or both (assuming the plans otherwise offer dependent coverage); and
- Other children who are born through some form of in vitro fertilization process.

Thank you for your time.

Kevin Wiggins

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