

**From:** [Julie Ward](#)  
**To:** [EBSA, E-OHPSCA - EBSA](#)  
**Subject:** Comments on RIN 1210-AB41  
**Date:** Friday, August 06, 2010 1:20:42 PM  
**Attachments:** [Dependent coverage on letterhead FINAL.doc](#)

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Please find attached comments on the dependence coverage interim final rule (RIN 1210-AB41) from the Consortium for Citizens with Disabilities Health Task Force. We appreciate the opportunity to comment.

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**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

August 6, 2010

Mr. Jim Mayhew  
Office of Consumer Information and Oversight  
Department of Health and Human Services  
Attention: OCIIO-9994-IFC  
P.O. Box 8016  
Baltimore Maryland 21244-1850

RE: 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 (RIN 0991-AB66)

Dear Mr. Mayhew:

The following members of the Consortium for Citizens with Disabilities (CCD) Health Task Force are writing to express their support for the 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 (PPACA) and to offer additional recommendations.

The CCD Health Task is a coalition of national consumer, service provider, and professional organizations which advocate on behalf of persons with disabilities and chronic conditions and their families. The CCD Health Task Force is working to ensure that health care reform provides all Americans, including people with disabilities and chronic conditions, access to high quality, comprehensive, affordable health care that meets their individual needs and enables them to be healthy, functional, live as independently as possible, and participate in the community.

The extension of dependent coverage of children to age 26 will have a positive effect on young adults with disabilities. Prior to the enactment of PPACA, when young adults were dropped from coverage at age 19, many tried to enroll in Medicaid. Now, these young adults can remain covered until age 26 and will hopefully transition to employer sponsored health insurance. This not only helps many individuals with disabilities, but reduces the burden on the Medicaid program.

Since this provision is critical to young adults with disabilities, we want to ensure that the interim final rules do not hurt their protections. Therefore, we have three

recommendations to guarantee that young adults with disabilities will be able to keep necessary coverage.

- 1) Add an additional reference to other plans outside the definition of “eligible employer-sponsored group health plan.”

Currently, an “eligible employer-sponsored group health plan” is defined in IRC 5000A (f) (2) as “a group health plan or group health insurance coverage offered by an employer to the employee which is (A) a governmental plan, or (B) another plan or coverage offered in the small or large group market within a State.” However, the statute fails to describe the characteristics of such a plan. It would be helpful to also reference regulations in 45 CFR 146.145 that explain that plans which only offer excepted benefits or that cover only accidents or disability are not eligible employer-sponsored health plans.

- 2) Do not consider temporary coverage policies as “eligible employer-sponsored group health plans.”

It is critical for young adults, especially those with disabilities, to get a variety of work experiences. During that time of exploration, young adults who have temporary jobs or work as short-term interns are sometimes offered temporary health coverage. These plans are not guaranteed renewable and do not provide portability protections. If an individual is offered an employer-sponsored group health plan, he or she is no longer able to remain on his or her parent’s plan. These plans should not be considered eligible employer-sponsored plans so that young adults can be much better protected under their parent’s plan.

- 3) Ensure that young adults can stay on their parents plan until they receive *full coverage* from an employer.

Even after a young adult has a qualifying offer of employer-sponsored insurance, the dependent may not have access to care immediately. Regulations should make clear that young adults may stay on their parents’ grandfathered plan until fully covered by their own employer plan. Simple confusion over the rule could prevent a dependent from maintaining coverage. For example, an insurer could ask a plan holder whether her dependent works for a company that provides health insurance to employees. A “yes” answer from the beneficiary would end coverage for her dependent, even if the child had to wait before joining an employer’s plan. To avoid the problems surrounding waiting periods the regulations should state clearly that grandfathered plans can exclude adult dependents only when the dependent can receive full coverage under an employer-sponsored plan. The text should include an example where an adult dependent covered by a grandfathered plan finds a job but must wait to obtain employer sponsored insurance. The conclusion should affirm that grandfathered plans cannot drop dependents while they wait for coverage from an employer.

Finally, the agencies should remind states that state and federal protections regarding pre-existing condition exclusions for young adults are unchanged by PACCA until 2014 and

that stronger state protections will not be pre-empted. CCD recommends that you send a letter to state insurance commissioners reminding them of the protections that young adults have against pre-existing condition exclusions in group plans under federal law and that states have authority to set more protective standards in the group market and to set standards.

CCD appreciates the strides that have been taken to support and protect individuals with disabilities under the Affordable Care Act. Please take these recommendations into consideration to maintain the intent of the Affordable Care Act. If you have any questions, please feel free to contact any of the Health Task Force Co-Chairs listed below. Thank you for your consideration of our comments.

Sincerely:

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American Association of People with Disabilities  
American Diabetes Association  
American Occupational Therapy Association  
Association of University Centers on Disabilities  
Brain Injury Association of America  
Children and Adults with Attention-Deficit/Hyperactivity Disorder  
Community Access National Network  
Easter Seals  
Epilepsy Foundation  
Family Voices  
National Alliance on Mental Illness  
National Association of Councils on Developmental Disabilities  
National Association of State Head Injury Administrators  
National Association of County Behavioral Health and Developmental Disability Programs  
National Disability Rights Network  
National Spinal Cord Injury Association  
NISH

Paralyzed Veterans of America  
The Arc of the United States  
Tourette Syndrome Association  
United Cerebral Palsy  
United Spinal Association