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Group Health Plans and Health Insurance Issuers Relating to Dependent Coverage of Children to Age 26, etc.

Comment On: HHS-OS-2010-0012-0001

Group Health Plans and Health Insurance Issuers Relating to Dependent Coverage of Children to Age 26, etc.

Document: HHS-OS-2010-0012-DRAFT-0019

Comment on FR Doc # 2010-11391

Submitter Information

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General Comment

The comments attached in the file below are submitted on behalf of the NYS Insurance Department.

Attachments

HHS-OS-2010-0012-DRAFT-0019.1: Comment on FR Doc # 2010-11391

**Comments to HHS Interim Final Regulations Regarding PPACA §1001
Dependent Coverage Extension to Age 26**

- I. **Availability of Coverage.** The regulation notes that the family must have “family coverage” and the parent(s) and child(ren) will have the same coverage. In some instances, a parent may have retiree coverage that is a Medicare Advantage plan. Children may not participate in such a plan. Is there any assistance anticipated for these people?

- II. **Eligibility for Grandfathered Plans.** Section 147.120(g)(1) states that for plan years beginning before January 1, 2014, grandfathered group plans may decline to enroll adult children who are eligible for employer-sponsored coverage. In our experience working with issuers on health insurance programs that have eligibility criteria and coverage extension laws, issuers will likely request documentation that these adult children are not eligible for employer-sponsored coverage. This would be difficult, if not impossible to provide. We would suggest amending the regulation to indicate that a self-attestation will suffice as proof of ineligibility for employer-sponsored coverage.

- III. **COBRA.** The regulation does not explicitly state that the extension also applies to young adults whose parents have COBRA or elect COBRA. While this is implied, clarification may avoid consumer and insurer questions regarding this.

- IV. **Residency.** Some network-based plans require the insured to live, work or reside within the service area in order to be eligible for coverage, in part to ensure that people are actually able to access the coverage that they have purchased. The law and regulation do not note any residency requirements. However, on the May 20, 2010 HHS call with states, HHS noted that a residency requirement would apply if such a requirement is already in place with the underlying coverage. It should be clear to insureds that access to coverage may be limited based on residency.

- V. **Definition of Children.** Neither the statute nor the draft regulation defines “children.” We are aware that some insurers are interpreting this silence to mean that only biological children must be covered and that insurers and policyholders may cover adopted children and stepchildren at their option, unless state law addresses the issue. We would suggest that the regulation define “child” to include adopted and stepchildren, as it does not appear that the intent of the law was to exclude these children.