



August 10, 2010

The Honorable Timothy Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
Washington, DC 20201

The Honorable Hilda Solis
Secretary
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

RE: Comments on Interim Final Rules Relating to Dependent Coverage of Children to Age 26 (OCIIO-4150-IFC)

Dear Secretaries Geithner, Sebelius, and Solis:

We appreciate the opportunity to comment on the Interim Final Rule released May 13, 2010, regarding the dependent coverage of children to age 26 provisions in the Patient Protection and Affordable Care Act (ACA).

Georgetown University's Center for Children and Families (Georgetown CCF) is an independent, nonpartisan policy and research center whose mission is to expand and improve health coverage for America's children and families. Central to our work is providing research and policy assistance to state administrators and state-based organizations on strategies for covering children and their families. We also conduct research and analysis to inform federal and state policymakers about issues impacting children and families in health care reform and to improve Medicaid and CHIP, particularly around streamlining enrollment and renewal systems.

With young adults representing 28 percent of the nation's uninsured population, Georgetown CCF believes that the dependent coverage rules will provide an important new option for families. We were particularly pleased that the Interim Final Rule clarifies that health plans (for new plan years on or after September 23, 2010) may not exclude dependents up to age 26 from coverage based on their tax dependent status, residence with parents, marital status, or student status. In addition, we believe that the Interim Final Rule ensures that coverage will be affordable for families by prohibiting variation by age in dependents' premiums.

To make the rules most responsive to the needs of families, we ask that you consider the following changes/additions to the Final Interim Rule:

- **Establish an inclusive and uniform definition of a “dependent child”.** The Interim Final Rule allows plans to define who is a child when determining which child can be covered. As a result, plans could make arbitrary decisions to deny dependent coverage to adopted children or stepchildren. Leaving this decision to the discretion of insurers would be inconsistent with the stated goal of the ACA’s dependent coverage provision, which is to create new coverage pathways for uninsured young adults. In addition, without establishing a uniform definition across health plans, families could be faced with conflicting rules, making it difficult to navigate the options available to them. Last, the regulation would be counter to federal tax policy, which expressly defines “child” for the purposes of medical expenses to include both stepchildren and adopted children. We urge you to issue revised guidance that establishes a broad definition for a dependent child to include a biological child, a stepchild, and an adopted or foster child (including formal kinship care arrangements).
- **Clarify that a young adult eligible for employer-sponsored coverage remains eligible under a parent’s plan until the first day of full coverage.** Under the ACA, until 2014, grandfathered plans are not required to cover adult dependents up to age 26, who are eligible to enroll in their own employer sponsored insurance. The regulatory language does not address instances in which a young adult begins a new job but is required to wait before receiving benefits due to an established waiting period or a pre-existing condition exclusion. We encourage you to clarify that a young adult continues to be eligible for the dependent coverage option until the point at which they are able to receive full benefits under their employer-sponsored coverage.
- **Develop stronger outreach, monitoring and enforcement strategies.** Georgetown CCF supports the requirement that beneficiaries receive “prominent notice” about the new dependent coverage rule. However, since this notice is directed at the parent, we encourage you to develop initiatives that would utilize university networks and social media to educate young adults on the new requirement. We also urge HHS and DOL to closely review ways to ensure successful monitoring and enforcement of the dependent coverage extension. Current insurance monitoring and enforcement rules are largely reliant on states, in addition to consumers identifying and reporting concerns or issues. However, with the number of changes that insurers will be required to make under the ACA (including the new dependent coverage provisions), the federal government has a critical regulatory role to play in monitoring and enforcing plan compliance. We also encourage you to work with state insurance commissioners or regulators to ensure they have the resources required to regulate the ACA provisions, and that consumers can easily obtain assistance when faced with non-compliance issues.

We appreciate your consideration of our comments. Please contact us at dch28@georgetown.edu or 202-687-7651 if you have any additional questions.

Sincerely,

Dawn Horner

Dawn Horner
Senior Program Director