

**From:** [Joy Goldman - NAW](#)  
**To:** [E-OHPSCA1251.EBSA](#)  
**Subject:** Comments Attached  
**Date:** Friday, August 06, 2010 10:01:38 AM  
**Attachments:** [CommentsDOLgroupHealthPlans.pdf](#)

---

TO:  
U.S. Department of Labor Employee Benefits Security Administration  
Office of Health Plans Standards & Compliance Assistance  
ATTENTION: RIN 1210-AB42

Our comments regarding the interim final rules for Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act are attached.

Many thanks --

Jade West  
Senior Vice President-Government Relations  
National Association of Wholesaler-Distributors  
202-872-0885



**Jade C. West**

*Senior Vice President-Government Relations*

August 6, 2010

Office of Health Plans Standards and Compliance Assistance  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue, NW, Room N-5653  
Washington, DC 20210  
Attention: RIN 1210-AB42

***RE: INTERIM FINAL RULES FOR GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE RELATING TO STATUS AS A GRANDFATHERED HEALTH PLAN UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT***

Dear Sir/Madam:

The National Association of Wholesaler-Distributors (NAW) appreciates the opportunity to submit comments in connection with the rulemaking referenced above undertaken by the Departments of Health and Human Services, Labor, and Treasury.

NAW, the “national voice of wholesale distribution”, is a Washington, DC-based trade association comprised of direct member companies and a federation of national, regional, state and local line-of-trade associations which together include approximately 40,000 enterprises with 150,000 places of business located in every state in the United States.

Wholesaler-distributors are the link in the marketing chain between manufacturers and retailers as well as industrial and governmental end-users. While the largest companies in wholesale distribution are publicly-traded firms that employ thousands of people with sales in the tens of billions annually, the industry is overwhelmingly populated by small to mid-size, closely-held family-run businesses. According to NAW’s Institute for Distribution Excellence, aggregate sales in wholesale distribution were valued at \$4.2 trillion in 2007, and total employment in the industry reached 5.2 million people that year.

The overwhelming majority of wholesaler-distributors provide employer-subsidized health coverage to their employees. Data dating back nearly a full decade consistently reveal that upwards of 90% of employers in the industry offer employer-subsidized coverage. Skyrocketing premium costs have been a painful reality, however: for most of this decade, the average annual increase in premiums was well into the teens, at times approaching 20%, and higher still for smaller wholesaler-distributors. In the last year alone, nearly nine in 10 wholesaler-distributors experienced a rate increase, and for more than 40% the increase was in excess of 15%. Not surprisingly, the average share of premiums paid by employers has declined over the past decade, a trend that can be expected to continue under current conditions.

**NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS**

1325 G Street N.W., Suite 1000, Washington, DC 20005 • 202-872-0885 • FAX: 202-785-0586 • [www.naw.org](http://www.naw.org)

Throughout this decade, wholesaler-distributors have warned that the need to calm exploding health coverage costs would force them to take cost-cutting measures certain to increase their workers' out-of-pocket health care expenses, most significantly increased deductibles, increased co-insurance, and increases in the percentage of premium paid by the employee. In just the last year, more than half have increased deductibles. Well over 40% have increased co-insurance amounts, and nearly 40% have increased the employees' premium share.

Against the backdrop of this "litany of horrors" is the fact that employers in the wholesale distribution industry have remained in the health coverage distribution business despite the lack of any federal requirement that they provide such coverage to their employees. They have done so for several reasons, for example:

- Employees value their employer's health insurance plan, and employers believe it is the right thing to do for their employees.
- Employers believe that an insured workforce will be a healthier workforce, resulting in fewer lost workdays and greater productivity.
- Employers offering good health benefits are more attractive in labor markets than are employers offering no, or what are viewed as inadequate health benefits. This is critical to attracting/retaining quality employees.

In short, NAW believes it is the reality of the marketplace that has made the employment-based health coverage system the success it is. Clearly it is not perfect – in the experience of employers in the wholesale distribution industry cost is huge problem – and NAW has, on its members' behalf, supported legislative initiatives focused on greater access through enhanced affordability; i.e., providing coverage to more people by making health insurance products more affordable to non-offering employers and their employees through free-market reforms. This was our hope as the recently-concluded health reform debate got underway and unfolded during the 111<sup>th</sup> Congress. We were initially encouraged by what we viewed as President Obama's promise to pursue reforms that would address skyrocketing costs as well as access and quality, and would not punish employers who in offering health coverage to their employees were already doing the right thing, by allowing those who liked their current plan to "keep it".

Regrettably, enactment of the Patient Protection and Affordable Care Act (Pub. L. 111-148) and, subsequently, the Health Care and Education Affordability Reconciliation Act (Pub. L. 111-152), leaves us far from that goal. Instead, wholesaler-distributors believe that newly-enacted health care reforms will yield an increase in their health care costs, an increase in national health expenditures and an increase in government spending for health care. Even the Obama Administration itself appears to have "turned the page" on the notion that "if you like your plan you can keep it". The fact sheet "Keeping the Health Plan You Have: The Affordable Care Act and 'Grandfathered Health Plans'", acknowledges that several significant reforms are immediately applicable to *all* health plans whether they are "grandfathered" or not.

*August 6, 2010*

*Page 3*

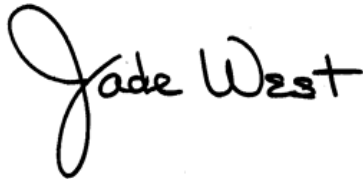
Beyond that, what is set forth in the instant rulemaking regarding “grandfathering” of health plans in existence on March 23, 2010 will substantially limit, to the point of practically removing, the tools employers, including wholesaler-distributors, have routinely used to partially mitigate large increases in health premiums and related costs, enabling them to continue, with considerable and growing difficulty to be sure, offering health coverage benefits to their workers. Failure to abide by those limits will result in the loss of “grandfathered” status, thus subjecting plans to a wide range of new and costly requirements.

Neither the new statutory health care reforms in general nor this interim final rule governing “grandfathered” status of existing health plans is consistent with the President’s assurance of allowing people to keep their existing plans if they wish to do so. Moreover, this interim final rule is so overreaching as to severely discount the value and purpose of “grandfathered” status. The result, we fear, will be an unending yet unsustainable upward spiral in employer health care costs with a concomitant impact on the wages, non-health care benefits, and jobs of American workers.

NAW, on behalf of its 40,000 affiliated employers, urges the Departments of Health and Human Services, Labor, and Treasury, to radically re-shape this “grandfathering” regulation to more closely adhere to the President’s assurances regarding existing health plans and to preserve the flexibility employers need to sustain their participation in the employment-based health coverage system.

Thank you for your consideration of NAW’s views.

Respectfully submitted,

A handwritten signature in black ink that reads "Jade West". The signature is written in a cursive, flowing style with a large initial "J" and a long, sweeping underline.

Jade C. West  
Senior Vice President-Government Relations