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**LEGAL PROCESSING DIVISION  
PUBLICATION & REGULATIONS  
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# PUBLIC SUBMISSION

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**Docket:** IRS-2010-0015

Requirements for Group Health Plans and Health Insurance Issuers under the Patient Protection and Affordable Care Act

**Comment On:** IRS-2010-0015-0001

Requirements for Group Health Plans and Health Insurance Issuers under the Patient Protection and Affordable Care Act:

**Document:** IRS-2010-0015-0017

Comment on FR Doc # 2010-15277

## Submitter Information

**Name:** John Vincent Drucker

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## General Comment

Re: Comment on 45 CFR 147.138(b)

Suggested change:

Add a section to 45 CFR 147.138(b) that requires a non-grandfathered plan to notify the beneficiary (via a reason code for each emergency service line on the explanation of benefits it provides the beneficiary) and medical professional and/or hospitals (via a reason code for each emergency service line on the reimbursement advise it provides a ER professionals and/or hospitals) that-

(a) the plan is a non-grandfathered plan and has determined its payment obligation for this covered emergency services line-item pursuant to the provisions 45 CFR 147.138(b)(3);

or

(c) ) the plan is a non-grandfathered plan and the plan has determined that the emergency services billed under this line-charge are not covered pursuant to the definitions in 45 CFR 147.138(b)(4).

Discussion:

There is nothing in existing regulations, as far as I can determine, that requires a plan to inform a beneficiary or a provider (physician and/or facility) if the out-of-network payment rules of 45 CFR 147.138(b)(3) apply to each line-item that has been billed for out-of-network emergency

services. Absent this information neither beneficiaries nor providers will be able to easily flag questionable line-item payments by non-grandfathered plans for emergency services.

This undercuts the consumer protections in the proposed regulations (29 CFR Part 2590) which provide beneficiaries and providers with access to a streamlined dispute resolution process should they wish to dispute:

(i) a non-grandfathered plan's determination that the services rendered do not meet certain medical necessity criteria (e.g.: the definition of covered emergency services in 45 CFR 147.138 (b)(4);

and/or

(ii) (ii) that the amount being paid by non-grandfathered plan does not comply with the plan's out-of-network payment obligations pursuant to federal regulations (45 CFR 147.138(b)(3) ).

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## Attachments

**IRS-2010-0015-0017.1:** Comment on FR Doc # 2010-15277

Vincent Drucker  
460 Summit Avenue, Mill Valley, CA 94941  
415-378-9131 jvdrucker@yahoo.com

Re: Comment on 45 CFR 147.138(b)(3) -- (Patient Protection Regulations pertaining to requiring non-grandfathered plans to reimburse appropriately for out-of-network emergency charges)

Suggested change:

Add a section to 45 CFR 147.138(b) that requires a non-grandfathered plan to notify the beneficiary (via a reason code for each emergency service line on the explanation of benefits it provides the beneficiary) and medical professional and/or hospitals (via a reason code for each emergency service line on the reimbursement advise it provides a ER professionals and/or hospitals) that-

(a) the plan is a non-grandfathered plan and has determined its payment obligation for this covered emergency services line-item pursuant to the provisions 45 CFR 147.138(b)(3);

or

(c) the plan is a non-grandfathered plan and the plan has determined that the emergency services billed under this line-charge are not covered pursuant to the definitions in 45 CFR 147.138(b)(4).

**Discussion:**

There is nothing in existing regulations, as far as I can determine, that requires a plan to inform a beneficiary or a provider (physician and/or facility) if the out-of-network payment rules of 45 CFR 147.138(b) apply to each line-item that has been billed for out-of-network emergency services. Absent this information neither beneficiaries nor providers will be able to easily flag questionable line-item payments by plans for out-of-network emergency services by non-grandfathered plans.

This undercuts the consumer protections in the proposed regulations (29 CFR Part 2590) which provide beneficiaries and providers with access to a streamlined dispute resolution process should they wish to dispute:

- (i) a non-grandfathered plan's determination that the services rendered do not meet certain medical necessity criteria (such as the definition of covered emergency services in 45 CFR 147.138(b)(4); and/or
- (ii) that the amount being paid by non-grandfathered plan does not comply with the plan's out-of-network payment obligations pursuant to federal regulations (45 CFR 147.138(b)(3) ).

Please contact me if you require additional details on any of the points I have raised.

Respectfully submitted

J Vincent Drucker

**Disclosure of Potential Conflicts of Interest**

I have no current source of revenue from any of the suggestions submitted above, as I am retired. My spouse has no sources of revenue from any of the suggestions submitted above. My spouse and I have no contracts that would allow us to have, in the future, any revenues from any of the suggestions submitted above. I have no children under 18 years of age or partners that would have any revenues from any of the suggestions submitted above.