



September 21, 2010

RIN 1210-AB45 via: [OHPSCA2719.EBSA@dol.gov](mailto:OHPSCA2719.EBSA@dol.gov)

OCIIO-9993 – IFC via: [www.regulations.gov](http://www.regulations.gov)

## **Comments Submitted in Response to Pending IFR**

**DOL: RIN1210-AB45**

**HHS: OCIIO-9993-IFC**

The California Association of Physician Groups is a trade association comprised of over 150 members who are either multispecialty medical groups or independent practice associations that operate in California. CAPG member physician groups collectively serve more than 15 million California patients. CAPG represents the voice of the “Delegated Model” physician groups that operate within managed care networks across California. Within the Delegated Model, several of our members are contractually delegated to provide claims authorization, review, utilization management and some limited appeals processes. Greater efficiencies and improved quality of care is achieved by delegating these operations to the provider group that is directly responsible for the patient. These regulations directly impact the daily functioning of our member groups who are responsible for half of the insured population of California. We respectfully submit the following comments:

California has operated under robust and effective consumer protection rules within the Knox-Keene Health Care Service Plan Act of 1975 (Health & Safety Code §1340, et seq.), as amended for several years. These rules were developed with the input of several consumer rights organizations and have functioned well for the past decade. The IFR conflicts with the existing California statute and regulation in several respects, but most notably, it requires a 24 hour rather than a 72 hour review of pending requests. California’s 200 Delegated Mode physician groups will be hard-pressed to modify their operations and to comply without some extended time period.

For example, California is implementing new regulatory procedures under Title 28, § 1300.67.2.2 regarding timely access to care. This new regulation specifically recognizes and incorporates the 72-hour standards for claims authorization requests within the time-elapse standards requirement of 96 hours for urgent care appointments. It takes time to complete a good quality review of authorization requests by physicians at the provider group level. In the Delegated model, the necessary hand-offs between primary care and specialist physicians cannot always be made overnight within a 24-hour window.

This IFR will require physician groups to provide 24/7 staffing and to absorb significant additional personnel and administrative costs in mid-contract cycle with health plans. They will not have the benefit to negotiate increased compensation for the provision of additional services in compliance with the IFR, resulting in fiscal destabilization of the physician group. It would be reasonable to delay implementation for groups that are already compliant with the existing California law on this subject for another 6 months, to March 21, 2011.

There is no guidance in this pending IFR on how to handle conflict situations between existing state and federal law in the time period between September 23, 2010 and the inception of the next plan year for enrollees in the individual and small group market. There will be tremendous confusion at the delegated physician group level since enrollees under these two market segments will be blended with large group enrollees that will apparently remain subject to state provisions.



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There is a significant difference between the existing language assistance requirements under California law and the IFR concerning threshold languages and requirements for written materials. California calculates its threshold languages under a different formula and requires specifically designated “vital documents” to be translated into the threshold languages. The IFR requires a different scheme which partially contradicts California practice for the individual, small group and large group enrollee populations.

Our member physician groups are expressing concern as they learn about this hastily-imposed IFR. We hope that you appreciate that imposition of significantly different rules will have a chaotic effect on health care service delivery.

As always, we appreciate the opportunity to comment.