



October 19, 2011

Donald Berwick, MD
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
Washington, DC 20201

Douglas H. Shulman
Commissioner of the Internal Revenue Service
Department of Treasury
1500 Pennsylvania Avenue Northwest
200 Independence Avenue, SW
Washington D.C., DC 20220

Phyllis C. Borzi
Assistant Secretary of Labor
Employee Benefits Security Administration
200 Constitution Ave, NW, Ste S-2524
Washington, DC 20210

Submitted via the Federal Rulemaking Portal <http://www.regulations.gov>

Re: Summary of Benefits and Coverage and the Uniform Glossary CMS-9982-P

Dear Dr. Berwick, Secretary Borzi and Commissioner Shulman:

I am writing on behalf of The National Association of Health Underwriters (NAHU), a professional association representing more than 100,000 licensed health insurance agents, brokers, consultants and employee benefit specialists nationally. We are pleased to provide comments on the proposed rules titled "Summary of Benefits and Coverage and the Uniform Glossary" as published in Volume 76, Number 162 of the *Federal Register*.

The members of NAHU service the health insurance policies of millions of Americans and work on a daily basis to help individuals and employers purchase, administer and utilize health insurance coverage. Our association was honored to be asked to be one of the stakeholder groups to serve on the National Association of Insurance Commissioners' (NAIC) Consumer Information Working Group. I personally spent many hours over more than a year's time on conference calls and in face-to-face meetings to help develop both the template summary of benefits form and the uniform glossary that were produced by the NAIC for consideration. NAHU is pleased to see that HHS accepted our working group's recommendations relative to the content and format of the summary of benefits and coverage, as well as the uniform glossary. However, we would like to share additional comments and recommendations concerning the overall proposed regulation.

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Washington, DC 20005 • 202-552-5060 • 202-747-6820 FAX • www.nahu.org**



Applicability to Large-Group Employer and Student Health Plans

NAHU believes that the final regulation should exempt both large-group employer health plans and large-group student health plans from the summary of benefits and coverage facts label requirements. The large-group health insurance marketplace, which includes both self-funded plans and fully insured plans that cover more than 100 employees, is very different than the individual and small-group health insurance market sectors. Large employers and universities are sophisticated purchasers and customize their benefit options to meet the needs of their employees. The result is a market with hundreds of thousands of unique group health plans. Imposing a standardized four-page summary form for each design would be very costly and complicated for our country's large employers and the health plans, agents, brokers, consultants and third-party administrators who serve their benefit needs.

Large companies are also already working with agents, brokers, consultants and third-party administrators to provide sophisticated coverage information materials to their employees, including disclosure and online comparison tools. We are concerned that requiring larger employers to provide additional standardized information to their employees would not only provide little value at extreme cost, but could actually confuse employees through misleading simplification. Furthermore, in the self-funding arena, in particular, there could be an inadvertent conflict between this summary and the employer's Summary Plan Description and Plan Document required by the Employee Retirement Income Security Act (ERISA). The result would be confusion, as well as potential litigation and resulting legal costs for consumers and employers.

The Patient Protection and Affordable Care Act (PPACA) recognizes the unique nature of the large-group market and creates different standards for this sector in many areas, including how health insurance premium rates are developed, and standards relating to actuarial value and essential health benefits. Your agencies should provide a similar safe harbor for the requirements to provide a Summary of Benefits and the Coverage Facts Label. If a complete exemption is not possible, then we request that you provide for a far more flexible and practical requirement for the large-group market.

Delivery Mechanism for the Coverage Facts Label

NAHU is concerned that the proposed delivery requirements for the coverage facts label would be very expensive to implement and would add significant costs to both individual and employer coverage. However, we believe an alternative delivery mechanism could efficiently deliver the coverage facts label to consumers. We recommend that HHS collaborate with major insurers to develop a standard computer program where consumers could input key plan cost sharing requirements (e.g., deductible) and the program would then calculate the out-of-pocket estimates for standard HHS scenarios.

Once HHS creates this program, individual insurers would load this program onto their websites and make it available to individual market applicants as well as group open-enrollment shoppers. Employers would direct their employees to these websites to access coverage facts labels.

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Implementation Timeframe

The implementation timeline for the summary of benefit requirements specified in this proposed rule mirror the dates specified in PPACA of the first plan year following March 23, 2012. However, PPACA also required that a final regulation to implement the summary of benefit requirements be developed and made public by March 23, 2011, and your agencies have not met that deadline. I recognize it took longer than originally anticipated for our NAIC working group to provide you with recommended templates, which could have been a contributing factor as to why the deadline was missed. However, the rules released to date are proposed rules, and the compressed timeline they provide is inadequate to make the complicated system and program changes necessary to implement. In addition, employers and insurers require a final rule in order to implement. We request that enforcement of these requirements be delayed until 18 months after the issuance of a final rule.

Written Documentation Cannot Replace Personalized Services

Finally, while NAHU recognizes the importance of providing all consumers with easy-to-understand written materials about their benefit options and coverage, we want to stress that this documentation can in no way replace the personal service, timely objective information, guidance and accountability that professionally trained and licensed agents and brokers deliver on a daily basis. Multiple national surveys indicate that health insurance consumers have an overwhelming preference for personalized service and human interaction, and that the vast majority of both individual and employer consumers are very satisfied with the service provided by their agents and remain committed to working with them in the future. Professionally trained and licensed benefit specialists are proud of their role as consumer advocates who help to make health care and other financial protection understandable for millions of Americans. We look forward to playing a constructive part of comprehensive health care reform aimed at expanding personal choice and access, reducing costs and improving health care quality.

NAHU sincerely appreciates this opportunity to provide these comments, and we look forward to working with you as implementation of PPACA moves forward. If you have any questions, or if we can be of further assistance, please feel free to either contact me directly at 202-595-0787 or jtrautwein@nahu.org . You also may want to contact our senior vice president of government affairs, Jessica Waltman, and she may be reached at 202-595-3676 or jwaltman@nahu.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet Trautwein". The signature is fluid and cursive, with a large loop at the end.

Janet Trautwein, Executive Vice President and CEO
National Association of Health Underwriters

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