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To: [EBSA, E-OHPSCA - EBSA](#)
Subject: Comment to 45 CFR Parts 144, 146, 147, Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Dependent Coverage
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Comment Regarding: Federal Register: Vol. 75, No. 92; Thursday, May 13, 2010, Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Dependent Coverage of Children to Age 26 Under the Patient Protection and Affordable Care Act.

Comment / Issue:

If a child has aged out and has COBRA continuation coverage that could last up to 36 months from the loss of eligibility, the child can now qualify under the parent's plan until age 26 (page 27125). The legislative intent to allow children to be covered by their parents until age 26 is to cover as many young adults under the age of 26 as possible *with the least burden*.

This rule is effective September 23, 2010 and excludes foster children who are eligible in only in the year 2014. The rule creates a disparity between children and foster children during the period 2010 – 2014.

In recent years approximately 60 Solano youths have been aging out of foster care in Solano County. This includes CWS foster youth, guardianship youth and probation youth. This would suggest that up to 300 former foster youths are in the 21 to 26 age cohort in Solano County. The County does not have the option to insure these foster youth as their children. The Department of Health and Human Services may estimate the number of foster children affected by this disparity nationwide.

Possible Mitigation:

- 1) Amend Foster Care Independence Act
 - a. Step 1: Change the federal Foster Care Independence Act (PL 106-169) to give states the option to extend Medicaid coverage for former foster youth to age 26.
 - b. Step 2: The California State Legislature amends Chapter 93, Statutes of 2000 implementing the option to extend coverage to foster youth up to age 26, including a provision to let this bill sunset in 2014 when the new federal coverage commences.
- 2) Change the Patient Protection and Affordable Care Act of 2010 to amend Title II, Subtitle A, Section 2004 to change the effective date to September 23, 2010 and change the age qualification to under 26 years of age.

- 3) Put forth a rule that Child Support Services ask birth parents of foster youth to include their children in health insurance coverage.

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