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August 4, 2010

Office of Consumer Information and Insurance Oversight  
Department of Health and Human Services  
Attention: OCIO-4150-IFC  
P.O. Box 8016  
Baltimore, MD 21244-1850  
Submitted electronically via [www.regulations.gov](http://www.regulations.gov)

Dear Sir or Madam:

I am writing on behalf of the American Federation of State, County & Municipal Employees (AFSCME), a union of 1.6 million active members and retirees throughout the United States. AFSCME appreciates this opportunity to comment on the Interim Final Rule implementing the provision relating to dependent coverage of children to age 26 under the Patient Protection and Affordable Care Act (PPACA).

AFSCME has fought to improve our health care system for decades and through the tremendous energy and commitment of our members, activists and leaders all over the country we played an important role in the passage of the PPACA. We believe that these regulations help to address one of our main health care reform objectives – the expansion of coverage – and strongly support the addition of Section 2714 of the Public Health Service Act by the PPACA.

We commend the agencies for issuing rules that condition dependent eligibility only on the relationship between the child and the plan participant, broadly defining “dependent” to include children regardless of financial dependency, residency, student status, marital status or employment. However, we believe the regulation’s basic purpose of extending this dependent coverage to as many children as possible would be advanced by clarifying that adopted and stepchildren meet the “relationship test.” Doing so would help this provision align more properly with the provision extending the favorable tax treatment of such coverage where the definition of “child” includes both stepchildren and adopted children. Further, under ERISA, 29 U.S.C. § 1169(c)(1), group health plans offering dependent coverage must provide benefits to adopted children “under the same terms and conditions as apply in the case of dependent children who are natural children of participants or beneficiaries under the plan.” While, to our knowledge, many public sector plans do extend dependent benefit coverage to adopted children, it may not always be the case. The addition of this clarification would ensure equal treatment of public and private sector plans and inclusion of step children would be consistent with the intent of the PPACA.

**American Federation of State, County and Municipal Employees, AFL-CIO**

TEL (202) 429-1000 FAX (202) 429-1293 TDD (202) 659-0446 WEB [www.afscme.org](http://www.afscme.org) 1625 L Street, NW, Washington, DC 20036-5687

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In addition, we urge the agencies to provide further clarity concerning what constitutes an "eligible employer-sponsored health plan." Due to the special rule for grandfathered group health plans allowing for the exclusion of adult children (up to age 26) if they are eligible to enroll in an eligible employer-sponsored health plan, we are concerned that some adult children may improperly fall under this exemption. Specifically, the regulations should clarify that "excepted benefits" and possibly inadequate limited benefit plans are not considered to be "eligible employer-sponsored health plans" for the purposes of this special rule.

AFSCME appreciates the opportunity to comment on this interim final rule and looks forward to continuing to work with the Department of Health and Human Services as the various provisions of health care reform are implemented.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. Kreisberg", with a long horizontal stroke extending to the right.

Steven Kreisberg  
Director of Collective Bargaining and  
Health Care Policy

SK:tem