

December 8, 2010

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, N.W., Room N-5653
Washington, DC 20210
Attention: RIN 1210-AB42

RE: *Amendment to the Interim Final Rules for Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act*

Dear Sir/Madam:

The National Association of Wholesaler-Distributors (NAW) appreciates the opportunity to submit comments in connection with the rulemaking referenced above undertaken by the Departments of Health and Human Services, Labor, and Treasury. NAW, the “national voice of wholesale distribution”, is a Washington, DC-based trade association comprised of direct member companies and a federation of national, regional, state and local line-of-trade associations which together include approximately 40,000 enterprises with 150,000 place of business located in every state in the United States.

In my August 6, 2010 letter offering NAW’s comments on the initial Interim Final Rule (IFR) I wrote:

“...what is set forth in the instant rulemaking regarding ‘grandfathering’ of health plans in existence on March 23, 2010 will substantially limit, to the point of practically removing, the tools employers, including wholesaler-distributors, have routinely used to partially mitigate large increases in health premiums and related costs, enabling them to continue ... offering health coverage benefits to their workers.”

The ability of insured plans to seek alternatives to their current issuer is one of these tools taken by the IFR. By allowing “a group health plan to change health insurance coverage (that is, to allow a group health plan to enter into a new policy, certificate, or contract of insurance) without ceasing to be a grandfathered health plan,” this Amendment properly restores this important marketplace tool. Regrettably, its restoration is prospective only; i.e., for only those changes to group health insurance coverage that are effective on or after November 15, 2010. We urge that this Amendment be applied to all group health plans in existence as of March 23, 2010 (the date of enactment of the Patient Protection and Affordable Care Act (PPACA)).

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NAW's August 6 comments also indicated:

"... this interim final rule is so overreaching as to severely discount the value and purpose of 'grandfathered' status. The result, we fear, will be an unending yet unsustainable upward spiral in employer health care costs ..."

Consequently, NAW called upon the departments "to radically re-shape this 'grandfathering' regulation to more closely adhere to the President's assurances regarding existing health plans"; i.e., to allow people to keep their existing plans if they wish to do so. This Amendment, while a partial step in the right direction, clearly falls short of our admonition in this regard. The preamble to this Amendment acknowledges as much:

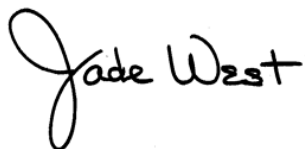
"The Departments expect that this amendment will result in a small (emphasis added) increase in the number of plans retaining their grandfathered status ..."

Finally, NAW continues to believe the underlying IFR vastly exceeds anything that can be reasonably inferred by Section 1251 of the PPACA. NAW stands by the August 16, 2010 comments of the Small Business Coalition for Affordable Health Care in which we joined, that among other things observed:

"... neither PPACA Section 1251 nor any other provisions of the Act authorize or even contemplates post-enactment loss of grandfathered health plan status by a group health plan or employer-sponsored health insurance coverage that satisfied the requirements of Section 1251 on the date of enactment ... PPACA Section 1251(e) defines the term 'grandfathered health plan' with respect to criteria that must be satisfied as of March 23, 2010, and Section 1251 ... does not mention or even allude to any (emphasis in original) possibility of loss of grandfathered health plan status, much less of 'ceas(ing) to be a grandfathered health plan'".

Thank you for your consideration of NAW's views.

Respectfully submitted,

A handwritten signature in black ink that reads "Jade West". The signature is written in a cursive, flowing style.

Jade C. West
Senior Vice President-Government Relations