

August 16, 2010

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

Attention: Definition of Grandfathered Plans

RE: RIN 1210-AB42  
29 CFR Part 2590

Group Health Plans and Health Insurance Coverage Relating to Status as a  
Grandfathered Health Plan Under the Patient Protection and Affordable Care Act

To Whom It May Concern,

WorldatWork respectfully submits these comments in response to the Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act [Federal Register Volume 75, Number 116 (June 17, 2010)]. We appreciate the opportunity to comment.

### **Background on WorldatWork**

WorldatWork ([www.worldatwork.org](http://www.worldatwork.org)) is a not-for-profit global human resources association focused on compensation, benefits, work-life and integrated total rewards to attract, motivate and retain a talented workforce. Founded in 1955 and formerly known as the American Compensation Association, WorldatWork provides a network of more than 30,000 members and professionals in more than 100 countries with training, certification, research, conferences and community. It has offices in Scottsdale, Arizona, and Washington, D.C.

WorldatWork members are human resources professionals who design and administer programs — including employer-sponsored health benefit plans — to attract, motivate and retain employees. These members believe there is a powerful exchange relationship between employer and employee, as demonstrated through the WorldatWork Total Rewards Model. Total rewards involve the deliberate integration of five key elements that effectively attract, motivate and retain the talent required to achieve desired organizational results. The five key elements are: compensation, benefits, work-life, career development and recognition.

The model recognizes that total rewards operate in the context of overall business strategy, organizational culture and HR strategy as well as a complex external environment that influences the organization. Within this context, an organization leverages the five elements to offer and align a value

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proposition that creates value for both the organization and the employee. An effective total rewards strategy results in satisfied, engaged and productive employees, who in turn deliver desired performance and results.

### **Potential Issues Identified by Select WorldatWork Members**

In requesting feedback from our members on the proposed interim final rules relating to a plan's status as a grandfathered plan under the Patient Protection and Affordable Care Act, we reached out to a small, select focus group of HR executives who specialize in employee benefits. There were mixed responses when asked about whether or not their companies planned to pursue obtaining grandfathered status, with one company considering pursuing grandfathered status reporting that they would only be able to maintain that status for a year. The reason given for not pursuing grandfathered status is a concern about not being able to manage plan costs and design under the rules governing grandfathered plans. Some focus group members felt that the consequences of maintaining a non-grandfathered plan are less problematic or costly than trying to comply with the grandfathering requirements. Companies are still struggling with understanding the benefits of maintaining their status as a grandfathered plan.

One area identified where additional clarification would be helpful in assisting companies deciding whether or not to pursue grandfathered status is the treatment of non-dollar limits on coverage. The interim final rule only addresses annual and lifetime dollar limits, not non-dollar limits such as number of visits or treatment duration. Confusion exists as to whether plans would be able to make changes to non-dollar limits and maintain grandfathered status.

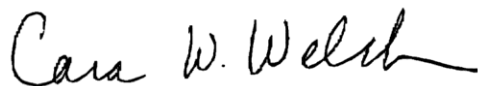
As this interim final rule is already effective, some of those interviewed also have worries about their compliance thus far. In defining "good faith compliance," there is concern about what would be perceived as "modestly" in determining whether or not a plan has only "modestly exceeded" the changes defined in paragraph (g)(1) of 26 CFR 54.9815-1251T, 29 CFR 2590.715-1251, and 45 CFR 147.140. Additional guidance on how the Departments are planning on interpreting "modestly" would be useful as companies examine the benefits of pursuing grandfathered status for their employee health benefit plans.

While our focus group was small and not representative of WorldatWork members as a whole, we felt they raised some important issues for the Departments to consider when finalizing the guidelines surrounding grandfathered plans.

### **Conclusion**

In conclusion, we appreciate this opportunity to comment on the Interim Final Rules and are ready to provide any assistance or information needed to facilitate the process of defining a grandfathered plan. Please do not hesitate to call on us to provide resources or unbiased expertise on employer-sponsored health benefit plans

Sincerely,



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