



The Guardian Life Insurance Company of America

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October 21, 2011

Dr. Donald Berwick
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9982-P
7500 Security Boulevard
Baltimore, MD 21244

Re: Summary of Benefits and Coverage and the Uniform Glossary

Dear Acting Administrator Berwick:

Guardian Life Insurance Company respectfully submits the following comments on the proposed rule entitled *Summary of Benefits and Coverage and the Uniform Glossary*, CMS-9982-P (August 22, 2011) (proposed rule).

The Guardian Life Insurance Company of America (Guardian) was founded more than 151 years ago with the promise that the company will be there “forever” for its policyholders. Our policyholders are our owners; we have no stockholders. We are not an international company; all of our policyholders, and therefore our owners, are in the United States. We have weathered civil and world wars, depressions and recessions, and emerged as one of the strongest and soundest life insurers in America. Our high financial ratings and very stable employee and customer base provide evidence of our strength.

In addition to life insurance, our product lines include employee benefits, individual disability, retirement, and investment products. Relevant to the proposed rule, Guardian has a legacy block of limited benefit individual policies that it no longer offers to new policy holders. These plans cover fewer than 1,000 policy holders and were initially offered to policy holders between 1955 and 1985. The number of policyholders as of March 2012 is expected to be less than 750. Many policy holders of these legacy closed-block individual policies have one or more other forms of coverage. The individuals who hold these policies have been satisfied with their coverage for decades, and they have not been offered to new policy holders since 1985.

We have two concerns about the implementation of the summary of benefits and coverage (SBC) described in the proposed rule. First, we are concerned that companies, like Guardian, be afforded sufficient time to comply with the new requirements proposed in this rule. Second, we

seek confirmation that the proposed rule will apply only to health insurance issuers offering health insurance coverage. Each of these concerns is discussed in greater detail below.

The proposed rule requests comments on how whether and how practical considerations might affect the timing of implementation of the SBC requirement. Although the Affordable Care Act states that certain entities should provide summaries of benefits and coverage information by March 23, 2012, we believe that the agency should use its discretion to allow affected entities to implement the requirement at a later date. Given the administrative burden and other issues associated with this complying with this requirement, implementation should be required no earlier than one year following the publication of the final regulation governing the SBC, consistent with the original statutory requirement. The statute required that the Secretary develop standards for the SBC no later than 12 months after the date of enactment of the Affordable Care Act. Because the final rule will be issued significantly later than the statutory deadline, additional time should be afforded for compliance with the requirement. We believe that the additional time is necessary to allow us to accommodate these changes. We believe that significant operational and administrative resources will be involved in complying with this requirement and that we should be afforded appropriate time to comply.

Second, we are seeking confirmation of our understanding of the language in both the statute and the regulation that provides that entities subject to this requirement are health insurance issuers “offering health insurance coverage”¹ We believe that the term “offering” means only products actively being marketed to new policyholders in the market place and should expressly exclude closed blocks involving products that are not being offered in the marketplace or through the exchanges. Specifically, closed block plans, such as Guardian’s individual policies described above, should not be subject to this requirement for the following reasons:

- First, our policy holders have typically held these policies for more than 30 years. Because of the longstanding nature of our relationship with these policy holders, they are well aware of the terms and coverage provided by these policies. Should they consider purchasing new coverage or additional coverage, an SBC may be valuable to helping them understand the terms of any new coverage they seek. However, an SBC is not necessary to understand a policy they have kept for decades.
- Second, this definition is consistent with the industry’s usage and common understanding of the term “offering” relating to only new policies actively marketed by a carrier. Because we are no longer actively marketing coverage to new policy holders, and in fact have not offered these plans to new policy holders in decades, we understand this language to mean that the closed block plans would not be required to provide the SBC. Guardian notes that this approach would be consistent with HHS’s Content Management Portal (CMP) requirements which were limited to only actively marketed plans and have a similar purpose of providing consistent health plan information to the buying public. We ask that the agency confirm this understanding in its final rule.
- Third, applying the SBC requirement to small amounts of closed-block policies creates a significant administrative burden for a very small population. While Guardian will fulfill its commitments to policy holders, these policies have not been economically viable for

¹ Affordable Care Act, § 2715(d)(3)(A); 45 C.F.R. § 147.200(a).

years. Adding the SBC requirement just adds further burden to Guardian's ability to maintain these plans.

Guardian is committed to providing clear and user-friendly information to our consumers about our products. We believe that our customers' satisfaction with our closed block individual policies has been well demonstrated and will continue into the future. We hope that you find these comments helpful as you develop the final rule governing the summary of benefits and coverage. Please contact us if you have any questions.

Very truly yours,

THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA

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