



December 5, 2016

U.S. Department of Labor (DOL)
Office of Regulations and Interpretations
Employee Benefits Security Administration
ATTN: RIN 1210-AB63
Annual Report and Disclosure
Room N-5655
200 Constitution Avenue, NW
Washington, DC 20210

Re: Annual Reporting and Disclosure – RIN 1210-AB63

To Whom It May Concern:

The District of Columbia Health Benefit Exchange Authority (DCHBX) appreciates your consideration of our comments below. DCHBX is a private-public partnership created by the District of Columbia Council to develop and operate the District's on-line health insurance marketplace called DC Health Link (DCHealthLink.com). DC Health Link enables individuals and small businesses to compare health insurance prices and benefits and to purchase affordable, quality health insurance. As of November 30, 2016, DCHBX covered more than 58,000 people enrolled through the small business marketplace.

These comments focus on two areas: 1. DOL work with states related to data for All-Payer Claims Databases; and 2. Exemption for small businesses related to Form 5500.

DOL work with states related to data for All-Payer Claims Databases

DCHBX encourages DOL to work with states and stakeholders to enhance the data available from ERISA plans. As Justice Breyer noted in *Gobeille v. Liberty Mut. Ins. Co.*, 126 S. Ct. 936 (2016) the Secretary of Labor could develop reporting requirements that would satisfy States' needs. In his concurring opinion, Justice Breyer noted that the Department could "... delegate to a particular State the authority to obtain data related to that State, while also providing the data to the Federal level." *Id.* at 950. Justice Breyer also suggested that federal approval of state data collections would be beneficial for all parties in that "federal agencies are more likely to be informed about, and to understand, ERISA-related consequences and health-care needs from a national perspective. Their involvement may consequently secure for the States necessary information without unnecessarily creating costly conflicts...." *Id.*



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DCHBX encourages DOL to adopt the recommendations set forth in the comments the National Academy for State Health Policy (NASHP) and the All-Payer Claims Database (APCD) Council submitted, recommending an approach through which DOL could leverage state resources to collect claims data.

Exemption for small businesses related to Form 5500

DCHBX strongly opposes the proposal to eliminate the exemption for small business from the Form 5500 reporting requirements. Small businesses have not historically been subject to the Form 5500 reporting requirements. Extending the Form 5500 reporting requirements to this group could create barriers to health care for their employees and would increase the operational costs for small businesses. In a spring 2016 survey of small businesses enrolled through DC Health Link, 40% reported that they did not offer health insurance coverage prior to enrolling through DC Health Link. New federal requirements may deter some small businesses from continuing to offer coverage or offering coverage for the first time. Small businesses offering coverage through marketplaces offer fully insured coverage. It is not clear what new data would materialize from state regulated small group plans. Data is already required to be provided by marketplaces to the federal government. New reporting requirements for this population would add limited value and could impose significant new burdens and new barriers for small businesses seeking to offer coverage to their employees.

Thank you for considering our comments on these proposed regulations.

Very truly yours,



Mila Kofman
Executive Director
DC Health Benefit Exchange Authority