



Rhode Island Executive Office of Health and Human Services
74 West Road, Hazard Building, 2nd floor, Cranston, RI 02920

December 2, 2016

Phyllis C. Borzi, Assistant Secretary of Labor
Employee Benefits Security Administration (EBSA)
200 Constitution Ave., NW, Suite S-2524
Washington, DC 20210

RE: EBSA-2016-0010: Annual Reporting and Disclosure

Dear Assistant Secretary Borzi:

On behalf of the State of Rhode Island, I am submitting this letter in response to the Department of Labor's (DOL) proposed rule regarding regulations as they relate to annual reporting of employer benefit plans governed by the Employee Retirement Income Security Act of 1974, as amended (ERISA).

As stakeholders watch the health care system become increasingly complex and costly, we would like to thank the DOL for recognizing the importance of collecting additional data from self-insured employer benefit health plans governed by ERISA (hereafter, "ERISA plans") and for requesting comments on the proposed rule. As you are well aware, the proposed rule is especially significant given the Supreme Court's recent decision in *Gobeille v. Liberty Mutual*¹.

The Rhode Island all-payer claims database (APCD), publically known as "HealthFactsRI", has been in operation since late 2014 and has collected over five years of data representing over a million covered lives. It is an essential tool for policymaking and academic research as well as the State's efforts around market reform, program evaluation, and performance management.

To fully realize their potential, APCDs – by definition - must include data from the large majority of beneficiaries. Until the *Gobeille* decision, APCDs were able to collect data for the vast majority of commercially insured individuals whether enrolled in ERISA self-insured, ERISA fully-insured, health insurance exchange plans, or other types of plans. As a result of *Gobeille*, our APCD has essentially lost access to almost half of the commercially insured population. A data loss of this size badly weakens the power and insight available through HealthFactsRI.

Our key points are as follows:

- APCDs are valuable public assets and serve many current and future needs, including protecting plan sponsors and beneficiaries from poor quality and high cost. Further, **the value obtained from APCDs is not obtainable from existing data sources or others that may be reasonably proposed;**

¹ *Gobeille v. Liberty Mutual Ins. Co.*, 577 U.S. Opinion of the Court (2016)



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- Although the *Gobeille* decision significantly impairs the value of APCDs by curtailing state authority to collect data from ERISA plans, the DOL has the authority and opportunity to remedy this situation. In addition, DOL can further advance the cause of administrative efficiency by **incorporating a new national standard** (the Common Data Layout, or CDL, being developed by the APCD Council in partnership with member states) for data collection as part of its proposed rule;
- The DOL **should expand the proposed rule** to require regular submission by ERISA plans of detailed eligibility, claims and provider information to APCD states. The rule should incorporate the CDL that has been collaboratively created by state and industry participants as a national standard;
- The DOL should also **create standards for data quality and timeliness**, as well as establish a long-term process for ensuring that the CDL remains viable and updated.

We believe that these suggestions will help bring about not only an effective restoration of the analytic power of APCDs, but also substantial administrative simplification (for states, ERISA plans, and others), while lowering the costs of creating new APCDs for the large areas of the country that have not yet created one.

Thank you for your consideration of these comments.

Sincerely,



Elizabeth H. Roberts
Secretary

