



DAVID A. RAYMOND
PRESIDENT & CEO

August 12, 2010

Office of Consumer Information and Insurance Oversight
Department of Health and Human Services
Room 445-G Hubert H. Humphrey Building
200 Independence Ave., SW
Washington, D.C. 20201

Re: OCIIO-991-IFC, 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 (PPACA)

On behalf of the American Council of Engineering Companies (ACEC) – the national voice of America’s engineering industry – I am writing to express our concerns about the interim final rules for group health plans relating to status as a grandfathered plan.

ACEC members – numbering more than 5,300 firms representing hundreds of thousands of engineers and other specialists throughout the country – are engaged in a wide range of works that propel the nation’s economy, and enhance and safeguard America’s quality of life. ACEC supports efforts to improve the availability of affordable, high-quality health insurance.

ACEC also affirms the commitment made by President Obama and congressional leaders to allow people who like their health insurance to keep what they have. The Council is concerned however that the rules for maintaining status as a grandfathered plan undermine that commitment, particularly as they relate to how employers manage the increasing cost of health insurance.

America’s engineering firms have demonstrated a strong commitment to the employer-provided health care system. According to independent surveys, 98 percent of engineering firms with more than one employee offer group health coverage to their employees. The biggest challenge they face in providing this important benefit is the rapidly rising cost of health insurance. Average premiums for family coverage have increased by 131 percent since 1999.

Implementing cost-sharing measures allows employers to continue offering comprehensive health insurance to their employees. Reasonable measures such as co-pays and co-insurance help keep premiums at an affordable level. However, the interim

final rules place substantial limits on cost-sharing for plans that want to maintain grandfathered status.

Under the interim rules, employers cannot decrease their contribution rate to employee premiums more than five percent below what they contributed on March 23, 2010 if the employer wants to keep grandfathered status. Moreover, any increase in a percentage cost-sharing requirement – such as co-insurance – after March 23, 2010 will cause a plan to lose grandfathered status. Increases in a fixed-amount cost-sharing requirement other than a co-payment – such as a deductible or an out-of-pocket limit – that exceed the percentage of medical inflation plus 15 percent will cause a plan to lose grandfathered status. Finally, any increase in a fixed-amount co-payment beyond the greater of five dollars plus medical inflation or medical inflation plus 15 percent will cause a plan to lose grandfathered status. It is important to note that medical inflation plus 15 percent is measured against the baseline of cost on March 23, 2010, and that baseline will not be reset each year.

These restrictions will make it difficult for plans to maintain grandfathered status for any significant length of time. In fact, the interim final rules state, “In total, approximately 66 percent of small employers and 48 percent of large employers made a change in either cost sharing or premium contribution during 2009 that would require them to relinquish grandfather status if the same change were made in 2011.” The fact that two-thirds of small firms and nearly half of large firms would lose grandfather status based on actual data from 2009 suggests that the cost-sharing requirements placed on grandfathered plans are too restrictive. The rules go on to say that, “the Departments’ mid-range estimate is that 66 percent of small employer plans and 45 percent of large employer plans will relinquish their grandfather status by the end of 2013.” If this estimate is correct, then clearly the interim final rules do not appropriately reflect congressional intent that people should be able to keep the health insurance they have.

As the Administration considers comments and revises the interim final rules, ACEC recommends that the provisions that relate to cost-sharing and grandfathered status be made more flexible so that our member firms can continue to provide their employees with affordable, high-quality health insurance. Thank you for your consideration of our views.

Sincerely,

A handwritten signature in dark ink, appearing to read "David A. Raymond", with a stylized flourish at the end.

David A. Raymond
President & CEO