October 21, 2011

The Honorable Timothy Geithner
Secretary
U.S. Department of the Treasury
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

The Honorable Hilda Solis
Secretary
U.S. Department of Labor
Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
200 Constitution Avenue, NW
Washington, DC 20210

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
Centers for Medicare & Medicaid Services
Baltimore, Maryland 21244–1850

Submitted via the Federal Regulations Web Portal, http://www.regulations.gov

ATTENTION: (Treasury), RIN 1210–AB52 (Room N-5653) (Labor), and CMS–9982–P
(P.O. Box 8016) (HHS)

**RE: Notice of Proposed Rulemaking: Summary of Benefits and Coverage and
         the Uniform Glossary (76 Fed. Reg. 52442 [August 22, 2011]).**

Dear Secretaries Geithner, Solis and Sebelius:

We are writing to share our concerns with you about the notice of proposed rulemaking
(NPRM) to implement Section 2715 of the Affordable Care Act (ACA) on the issuance of
a summary of benefits and coverage (SBC) and a uniform glossary of health plan terms
(76 Fed. Reg. 52442). In particular, we urge that an immediate communication be
issued to assure employers that adequate time will be provided for compliance with
these provisions. We also urge that a safe harbor be established to allow the
requirements of Section 2715 to be implemented in a way that is consistent with current
and effective practices already in place among employer-sponsored health plans, and
we recommend a simpler approach to implementing the portion of the rules which call for
plan participants to obtain "coverage facts labels" on selected health conditions.

We ask the Agencies to recognize that the finite resources available for employee
benefits must be carefully utilized so that the 94% of large employers (over size 50) that
currently offer coverage can continue to offer such coverage.[1] Therefore, we urge the
final rules be modified so that they do not impose unnecessary expenses onto employer-
sponsored health coverage. Employers need flexibility to meet the challenges expected
of them under the new law, but also to continue leading innovation in benefit designs
that are highly valued by our employees, drive quality and contain costs. Our ultimate
goal is affordable, quality health care for our employees.

Recommended Solutions: To avoid negative implications, we recommend:

1) *Immediate announcement of implementation extension:* The ACA required the Agencies to develop the standards for the summary of benefits no later than March 23, 2011, and a corresponding deadline for health insurers and health plans to begin issuing the summaries no later than March 23, 2012. While the Agencies did not meet their statutory deadline, the NPRM would require insurers and plans to meet the March 23, 2012 deadline, when no final rule has yet been issued. This compressed timeline is inadequate to make the complicated system and program changes necessary to implement these regulatory requirements. In addition, employers and insurers require a final rule in order to implement. We recommend that implementation not begin until 18 months after the issuance of a final rule. However, it is important that the agencies announce the extension immediately, and not wait until the final rule is issued.

2) *A safe harbor for insured and self-funded plans in the large group market.* Large employers are sophisticated purchasers and customize their benefit options to meet the needs of their employees. As a result, 88 percent of individuals are satisfied with their health coverage.[2]

   Large employers have honed, customized and detailed open enrollment materials to accurately reflect their employees' health plan choices and to properly communicate with their employees. Employers believe these materials allow employees to better select coverage options that best suit their needs and budgets. Imposing a standardized form for each of their benefit designs would be very costly, add little value beyond the disclosure and comparison tools already available to employees, and could end up confusing employees rather than achieving the goal of allowing them to make clear decisions about their health plan options.

   Given that health care costs are increasing by an average of about 9 percent per year and that all employers struggle to keep health coverage as affordable as possible for employees, any new administrative requirements must be implemented as seamlessly and efficiently as possible. Therefore, we strongly recommend that a safe harbor be included in the final rule which would allow large employers the flexibility they need to meet the SBC content requirements of Section 2715 through the information tools and materials that are commonly and successfully used today to inform employees of their benefits choices. The safe harbor should also include non-traditional large group plans such as student health coverage and ex patriate coverage.

3) *Establish a simplified program for the coverage facts label:* The current construct of the coverage facts label would unnecessarily add significant costs to health coverage. We believe an alternative delivery mechanism could efficiently deliver the coverage facts label to consumers.

   For example, issuers could establish an invisible internet link to a tool developed by HHS that would produce coverage facts labels. Consumers could input key cost sharing variables (e.g., deductible, out of pocket maximum) onto an online form that would be available on any insurer website. The cost sharing inputs

would then be seamlessly submitted in real time to the HHS program which would return a HHS coverage facts label to the consumer online.

We appreciate the opportunity to comment on the Summary of Benefits and Coverage and the Uniform Glossary NPRM. We hope that you take these comments into consideration as you develop a final rule which will impose fewer burdens and costs on the health coverage provided by employer-sponsored plans for more than 160 million Americans.[3]

Sincerely,

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Alief Independent School District (ISD)
American Airlines
American Benefits Council
American Hotel & Lodging Association
American Staffing Association
Applied Materials
Ascena Retail Group
Associated Builders and Contractors, Inc.
Associated General Contractors of America
Autozone
Black, Gould & Associates
Blair County Chamber of Commerce
Brazoria County Government, Angleton, Texas
Brick Industry Association
Brinker
CarMax
CIAB
Coalition for Affordable Health Coverage
College and University Professional Association for Human Resources
Con-Way Inc.
Costco Wholesale
CVS Caremark
Delta Airlines, Inc.
Food Marketing Institute
Harris County, Texas
Hobby Lobby Stores, Inc.
Houston Independent School District
HR Policy Association (HRPA)
International Franchise Association
Lafarge North America, Inc.
Liberty Mutual Insurance Group
Maritz, LLC
National Association of Health Underwriters (NAHU)
National Association of Manufacturers
National Association of REALTORS ®
National Association of Wholesale-Distributors
National Business Group on Health
National Council of Chain Restaurants

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National Retail Federation
National Ski Areas Association
Nationwide Mutual Insurance Company
Nordstrom
Paul Hastings, LLP
Penske Trucking Lease Co. LP
Phoenix Companies, Inc.
Pinnacle Claims Management, Inc.
Praxair, Inc.
Quest Diagnostics
REI
Retail Industry Leaders Association
RJ Dutton, Inc.
Small Business and Entrepreneurship Council
Society for Human Resource Management
Southside Bancshares, Inc.
State of Indiana, State Personnel Department
T. Ross Brown and Associates
U.S. Chamber of Commerce
VSP Vision Care
Waste Management, Inc.
Western Growers Association
Yale New Haven Health System
Yale University

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[1] *Kaiser Family Foundation (KFF) and the Health Research & Educational Trust (HRET).* Employer Health Benefits 2011 Annual Survey (September 2011).
[2] *Mathew Greenwald & Associates* for the Employee Benefit Research Institute, May 2009**.**
[3] *Kaiser Family Foundation*, Health Care Costs, October 20, 2011, http://www.kff.org/insurance/index.cfm.