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Association**

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February 24, 2014

Phyllis C. Borzi  
Assistant Secretary  
Employee Benefits Security Administration  
U.S. Department of Labor  
Administrator  
200 Constitution Avenue, N.W., Room N-1513  
Washington, DC 20210

***RE: Proposed Rule: RIN 1210-AB60 Amendments to Excepted Benefits, (Vol. 78, No. 247, December 24, 2013)***

Dear Assistant Secretary Borzi:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, and our 43,000 individual members, the American Hospital Association (AHA) appreciates the opportunity to comment on the proposed rule from the Departments of Labor, Treasury, and Health and Human Services that clarifies regulatory requirements for group health plans and issuers with regard to “limited excepted benefits” and minimum essential coverage under the Affordable Care Act (ACA). In general, regulatory requirements for group health plans and issuers do not apply to excepted benefits, and excepted benefits are not subject to the ACA minimum essential coverage requirements.

**The AHA supports the approach taken in the proposed rule regarding the expanded definition for “limited excepted benefits.”** The proposed rule defines “limited excepted benefits” as benefits either: 1) provided under a separate policy, certificate, or contract of insurance; or 2) generally exempted from the health reform requirements added to the Health Insurance Portability and Accountability Act and the ACA. In particular, the proposed rule expands the definition of “limited excepted benefits” in three areas: 1) self-funded plans; 2) certain wraparound coverage; and 3) employee assistance programs.

**Self-funded Plans.** Beginning in plan year 2015, self-insured employers can offer limited dental or vision benefits without requiring a premium as long as the employee has the right to reject the coverage. This proposed change would allow employers that



self-insure employee coverage to benefit from combining covered services under a single premium, which is currently available only to employers that offer coverage purchased from a commercial health insurer. As the rule's preamble notes, this would have the effect of leveling the playing field between self-insured employers and employers that provide coverage through an insurer.

**Wraparound Coverage.** The rule also would allow employers to offer limited wraparound coverage to their low-income employees who might also qualify for subsidy-supported coverage through the health insurance marketplaces, because the premium for the employer-sponsored coverage does not meet the affordability standard. According to the affordability standard, coverage is determined to be affordable if the employee's share of the premium expense for the employer's lowest-cost individual plan does not exceed 9.5 percent of the employee's household income. The proposed rule would allow low-income employees to have access to services similar to their co-workers through wraparound coverage that might include such non-essential health benefits as home health care, non-medically necessary pediatric orthodontia or wellness programs.

**Employee Assistance Programs (EAPs).** Finally, the rule makes it easier for certain EAPs to qualify as excepted benefits. These changes would allow employers to offer EAP services, such as mental health or substance abuse counseling, as supplemental coverage. The rule also proposes that if the EAP is the only employer-covered benefit, the employee would be able to qualify for premium tax credits offered through the marketplace.

**The AHA supports these proposed changes and urges the agencies to adopt them as final.** On balance, this proposed rule would allow employees to benefit from more limited employer-offered benefits and employers to continue to offer these limited benefit packages without requiring an additional premium from the employee or jeopardizing the employees' access to premium tax credits offered through the marketplaces.

Thank you for your consideration of our comments. If you have any questions, please contact, Molly Collins Offner, director of policy development, at (202) 626-2326 or [mcollins@aha.org](mailto:mcollins@aha.org), or Ellen Pryga, director of policy, at (202) 626-2667 or [epryga@aha.org](mailto:epryga@aha.org).

Sincerely,

/s/

Rick Pollack  
Executive Vice President