

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Center for Consumer Information and Insurance Oversight  
200 Independence Avenue SW  
Washington, DC 20201



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September 15, 2015

Ms. Annette Guarisco Fildes  
President & Chief Executive Officer  
The ERISA Industry Committee  
1400 L Street NW, Suite 350  
Washington, DC 20005

Dear Ms. Fildes:

Thank you for your letter regarding the May 26, 2015 tri-departmental guidance (ACA FAQ Part XXVII) on the annual limitations on cost sharing as those limitations apply to non-grandfathered self-insured and large group health plans. The Departments of Health and Human Services (HHS), Treasury, and Labor appreciate your concerns.

The Affordable Care Act provides that a non-grandfathered group health plan must ensure that any annual cost sharing imposed under the plan does not exceed the annual limitation provided for under section 1302(c)(1). On November 26, 2014, HHS published a notice of proposed rulemaking (NPRM) in which HHS proposed to clarify that “the annual limitation on cost sharing for self-only coverage [be] applie[d] to all individuals regardless of whether the individual is covered by a self-only plan or is covered by a plan that is other than self-only.” On February 27, 2015, HHS published the Notice of Benefit and Payment Parameters for 2016 Final Rule, which finalized this clarification.<sup>1</sup> We believe that applying the individual \$6,850 maximum annual limitation on cost sharing to individuals covered by a plan that is other than self-only helps remedy the difficulty a consumer could face in paying up to \$13,700 out-of-pocket for certain covered medical care under the plan because he or she purchased family coverage instead of self-only coverage. It also prevents consumers from being penalized for purchasing family coverage rather than self-only coverage.

The NPRM published on November 26, 2014 clearly proposed policies for implementing these MOOP limits. These limits were finalized on February 27, 2015 providing notice of implementation for the 2016 plan year.

As stated in the May 26, 2015 FAQ, this clarification applies to all non-grandfathered small group and large group health plans, including self-insured plans, for plan or policy years beginning on or after January 1, 2016. We would like to emphasize that for these plans, the

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<sup>1</sup> Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016; Final Rule; CMS-9944-F; February 27, 2015.

annual limitation on cost sharing only applies to covered benefits that would be essential health benefits under Section 1302 of the Affordable Care Act.

Please do not hesitate to contact us with any further thoughts or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin J. Counihan". The signature is fluid and cursive, with a prominent initial "K".

Kevin J. Counihan

Chief Executive Officer, Health Insurance Marketplaces

Director, Center for Consumer Information & Insurance Oversight