



March 21, 2019

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attn: CMS-9923-NC
P.O. 8013
Baltimore, MD 21244-8015

Re: Request for Information Regarding Grandfathered Group Health Plans and Grandfathered Group Health Insurance Coverage – CMS-9923-NC

To Whom It May Concern:

The District of Columbia Health Benefit Exchange Authority (HBX) appreciates your consideration of our comments on the above-cited Request for Information Regarding Grandfathered Group Health Plans and Grandfathered Group Health Insurance Coverage (RFI).

By way of background, HBX is a private-public partnership established by the District of Columbia (District) to develop and operate the District's on-line health insurance *marketplace*, DC Health Link (DCHealthLink.com). DC Health Link fosters competition and transparency in the private health insurance market, enabling individuals and small businesses to compare health insurance prices and benefits and to purchase affordable, quality health insurance. Leveraging the Affordable Care Act (ACA) and DC Health Link, the District has achieved near universal coverage with more than 96% of District residents now having health coverage.

Administration Request

The RFI was issued by the U.S. Department of the Treasury, the U.S. Department of Labor, and the U.S. Department of Health & Human Services (the Departments) on February 22, 2019. In general, the RFI is requesting more information "to better understand the challenges" that groups face in preserving grandfathered status, and "to determine whether there are opportunities for the Departments to assist. . .in preserving the grandfathered status" of group health plans. 84 *Fed. Reg.* 5969. The Departments are not requesting information concerning grandfathered plans in the individual market.

Discussion

The Affordable Care Act (ACA) allowed certain plans to remain in place as grandfathered plans without having to meet all ACA requirements, provided they met certain conditions. The Departments codified rules to determine how plans can maintain grandfathered status *See, e.g.,* C.F.R. §147.140. At the time the ACA was passed, as a matter of good public policy it was important to allow for grandfathered plans. The commercial group market needed time to change from an underwritten market to a guaranteed issue one. The grandfathered status of certain plans that were required to remain essentially unchanged after ACA enactment was a transition mechanism to allow adjustment to a new risk mix under a guaranteed issue market.



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In order for private health insurance to work, markets require as broadly based a single risk pool as possible. With a broadly-based single risk pool, there is less chance of cherry-picking healthy customers out and weakening the risk pool, which results in higher premiums for that weakened pool. To allow grandfathered plans to transition naturally will result in a stronger more competitive risk pool where consumers benefit from having quality, affordable comprehensive health care coverage.

Having grandfathered plans as a mechanism for the transition of the market worked well as designed and should not be modified. Over time, fewer plans maintained grandfathered status as the market continues toward completing the transition to a single, merged, guaranteed issue market. To disrupt that natural attrition and prop up grandfathered status artificially does not further any good public policy. Instead, it means that some healthier groups are not covered in the guaranteed-issue risk pool. This makes premiums more expensive for employers and their workers covered by ACA plans. Ultimately, a stable and competitive market exists where there is a single risk pool. The markets should be allowed to complete the natural attrition process resulting in a single risk pool.

Conclusion

DCHBX opposes changes that favor grandfathered plans over ACA plans. We do, however, support market-stabilizing solutions, flexibility for states, and policies that help people obtain affordable, quality health insurance.

Thank you for considering our comments on issues that will directly impact DC residents and businesses. We look forward to working with you on these issues to empower consumers and ensure that District residents continue to have access to quality and affordable coverage.

Sincerely,



Mila Kofman
Executive Director
DC Health Benefit Exchange Authority