



September 28, 2010

Office of Consumer Information and Insurance Oversight  
Department of Health and Human Services  
Attention: OCIIO-4150-IFC  
P.O. Box 8010  
Baltimore, MD 21244-8010

Re: Pre-Existing Condition Insurance Plan Program  
File Code OCCIIO-9995-IFC

Submitted via eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov)

Dear Sir or Madam:

I am writing on behalf of America's Health Insurance Plans (AHIP) to offer comments in response to the interim final rule (IFR) concerning the Pre-Existing Condition Insurance Plan Program published in the *Federal Register* on July 30, 2010 (75 Fed. Reg. 45014). The IFR implements Section 1101 of Title I of the Patient Protection and Affordable Care Act (Affordable Care Act), which was signed into law March 23, 2010.<sup>1</sup>

AHIP is the national association representing approximately 1,300 health insurance plans that provide coverage to more than 200 million Americans. Our members offer a broad range of health insurance products in the commercial marketplace and have demonstrated a strong commitment to participation in public programs.

AHIP's members are committed to implementation of the Affordable Care Act and supportive of efforts to expand coverage to the uninsured, particularly individuals who have been without coverage and have a pre-existing medical condition. The creation of Pre-Existing Condition Insurance Plans (PCIPs) to provide coverage at a standard premium to these individuals with federal funding for deficits under these plans helps meet a vital need for affordable coverage options and creates a safety net during the transition to reforms that will be effective January 1, 2014.

AHIP's comments below are intended to support the successful implementation of the expansion of coverage for consumers with pre-existing medical conditions during the transition, while, at

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<sup>1</sup> Pub. L. No. 111-148, as amended by Pub. L. No. 111-152.



the same time, minimizing disruptions for consumers with existing coverage and other unintended consequences.

***The Pre-Existing Condition Insurance Plans Provide a Vital Safety Net During the Transition Period Prior to January 1, 2014.***

AHIP and its members have long supported state high risk pools, with broad-based funding for deficits, as an important element in a voluntary market to provide coverage to consumers with pre-existing conditions. In doing so, high risk pools help keep coverage affordable for individual consumers in the private market.

The Affordable Care Act and IFR build on the state high risk pool approach in implementing transitional PCIPs. PCIPs provide comprehensive coverage – at a standard rate and without application of pre-existing condition exclusions – to individuals with pre-existing medical conditions until guarantee issue of coverage, coupled with a requirement for coverage and premium subsidies, takes effect January 1, 2014. We support this approach, with its broad-based funding, that provides a vital safety net for individuals with pre-existing conditions and helps keep coverage affordable for consumers in the private market.

***The IFR Strikes an Appropriate Balance in Clarifying the Circumstances Under Which Penalties Will Be Imposed.***

The Affordable Care Act imposes penalties where a group health plan or a health insurance issuer has discouraged an individual from remaining enrolled in prior coverage based on that individual's health status. The IFR clarifies that this circumstance occurs in situations where:

- The individual was provided financial consideration or other rewards for disenrolling from coverage, or disincentives for remaining enrolled;
- The individual received an unexplained premium increase that resulted in a premium higher than the PCIP premium; or
- The health plan, issuer, or employer otherwise provided money or other financial consideration to disenroll from coverage, or disincentive to remain enrolled in such coverage.

AHIP believes that a penalty under the above circumstances strikes an appropriate balance between situations where an individual leaves coverage and those where an individual may be inappropriately induced to do so. As outlined in the IFR, these actions should be discouraged, so that individuals who currently have coverage are not provided financial or other incentives to drop their coverage, and then enroll in a PCIP.

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AHIP remains committed to our continued collaboration and dialogue, and we appreciate the opportunity to comment on this important transitional safety net for individuals with pre-existing medical conditions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff L. Gabardi". The signature is fluid and cursive, with a large initial "J" and "G".

Jeff L. Gabardi  
Senior Vice President, State Affairs