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Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
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Centers for Medicare & Medicaid Services
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Internal Revenue Service
U.S. Department of the Treasury
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Washington, DC 20044

ATTN: Ninety-Day Waiting Period Limitation

Submitted electronically via www.Regulations.gov

To Whom It May Concern:

On behalf of the American Heart Association (AHA), including its American Stroke Association (ASA) division, and more than 22 million volunteers and supporters, we appreciate this opportunity to submit comments on the "Ninety-Day Waiting Period Limitation" proposed rules.

The AHA/ASA has long advocated for all Americans to have access to affordable, quality health insurance coverage. Access to timely health insurance coverage—and the medical benefits it affords—can be critical for consumers, especially those with preexisting conditions, and it is also critical to helping the association achieve its ambitious goal to prevent as many heart attacks and strokes as possible, as well as the risk factors for these conditions.

Yet individuals with seeming access to coverage through an employer may be forced to wait before becoming eligible for coverage or obtaining benefits. Such a delay is common: In 2013, 77 percent of new employees were required to wait before obtaining health insurance coverage from their employer (up from 72 percent in 2011). For 30 percent of covered workers facing a waiting period, this delay lasted for 3 months or more.ⁱ

Waiting periods disrupt the continuity of coverage, can discourage enrollment, and leave consumers more vulnerable to costs associated with medical care and maintaining other coverage.ⁱⁱ To promote access to coverage more immediately, the Patient Protection and Affordable Care Act (ACA) prohibits group health plans or health insurance issuers offering group health insurance coverage from imposing any waiting period that exceeds 90 days, effective January 1, 2014.

The rule being proposed by the Department of Health and Human Services, the Department of Labor, and the Department of the Treasury (the Departments) would allow employers to require employees to complete an additional one month orientation period before the 90-day waiting period would begin. Essentially this means that the 90-day waiting period could become 120 days for workers whose employers impose an orientation period.

We strongly encourage the Departments to reconsider the need for a one-month orientation period. The stated reason for a “reasonable and bona fide orientation period” is to allow the employer and employee to decide whether the employment situation is satisfactory for each party and to allow time for orientation and training. However, it is our understanding that this, along with administrative ease, is the same rationale used to justify the 90-day waiting period. We recommend, therefore, that any required orientation period should run concurrently with the 90-day waiting period.

According to the 2013 Kaiser Employer Health Benefits Survey, the average waiting period among covered workers who face a waiting period is 1.8 months, and as stated above, most workers face a waiting period of less than three months. Moreover, only 9 percent of workers face a waiting period of 4 months or more. This suggests to us that the current regulations permitting a 90-day waiting period should give employers sufficient flexibility to determine whether an employee is going to be suitable, to provide necessary orientation, and, for administrative simplicity, to begin coverage on the first of the month. We are concerned that the proposed policy could cause some employers to lengthen their waiting period by establishing a new orientation period. While we recognize that workers now have access to individual health insurance coverage through the health insurance marketplaces that can help them minimize gaps in coverage during a waiting period, there will undoubtedly be some consumers who go without insurance during this time.

Again, we urge the Departments to minimize the length of time that some consumers may go uninsured by requiring that any orientation period run concurrently with the 90-day waiting period. Thank you again for the opportunity to share our comments on this proposed rule. If you have any questions, please feel free to contact Stephanie Mohl, Senior Government Relations Advisor, at Stephanie.Mohl@heart.org or 202-785-7909.

Sincerely,



Mariell Jessup, MD, FAHA
President

ⁱ Henry J. Kaiser Family Foundation & Health Research & Educational Trust. 2013. *Employer Health Benefits: 2013 Annual Survey*. Menlo Park, CA: Henry J. Kaiser Family Foundation.

ⁱⁱ Gabel, J.R. Pickreign, J.D. Whitmore, H.H. Schoen, C. 2001. “Embraceable You: How Employers Influence Health Plan Enrollment.” *Health Affairs* 20(4):196-208.