



701 Pennsylvania Ave. N.W., Suite 700
Washington, D.C. 20004-2694
(202) 737-5980 • (202) 478-5113 (fax)
info@carecontinuumalliance.org
www.carecontinuumalliance.org

July 2, 2013

Mr. Dan Werfel
Acting Commissioner
CC:PA:LPD:PR (REG-125398-12)
Room 5203
Internal Revenue Service
PO Box 7604
Ben Franklin Station
Washington, D.C. 20044

Submitted via www.Regulations.gov (IRS REG-125398-12)

Re: EBSA-2012-0031-0001: Incentives for Nondiscriminatory Wellness Programs in Group Health Plans

Dear Mr. Werfel:

Thank you for the opportunity to share our views on the proposed rule on the minimum value of eligible employer-sponsored group health plans and other rules regarding the health insurance premium tax credit (REG-125398-12). The following comments focus on the proposed regulations that relate to the treatment of incentives to reduce cost sharing or premiums offered as part of a nondiscriminatory wellness program.

Care Continuum Alliance (CCA) is a non-profit association of almost 200 companies. We convene all stakeholders in the population health management industry. Our members design and provide services, programs and tools to better coordinate care for all patients along the continuum, from the healthy to those with chronic conditions. Through advocacy, research and education, CCA advances strategies that increase quality in the health care system while reducing costs.

CCA strongly supports recent legislative and regulatory efforts to promote wellness and prevention. Our members lead the healthcare industry in applying evidence-based programs to improve health and well-being and mitigate health risks. Based on our experience and current research, we know that many of the most effective wellness programs use incentives to achieve and sustain high levels of consumer engagement.¹

¹ Seaverson (2009), Healthways (2009).

Many employers currently offer wellness programs for other risks beyond tobacco use and incentives to foster voluntary employee engagement and participation in those programs.²

- The 2013 Mercer National Health Survey of Employer Sponsored Health Plans showed that 29% of employers with 500-4,999 employees and 45% of employers with 5,000+ employees offer incentives for participation in a lifestyle management program.³ For completing a health risk assessment, 21% employers with 50-499 employees and 47% of employers with 500-4,999 employees offer incentives.⁴ Employers offering incentives for completing health risk assessments and participating in a lifestyle management program increased their participation rates by 26% and 9% respectively.⁵

We are concerned that the proposed regulations will have the unintended consequence of discouraging employers from continuing existing or adopting new wellness programs that are proven effective. Discouraging the use of comprehensive wellness programs is not consistent with the intent of the Affordable Care Act (ACA).

Furthermore, we respectfully disagree with the assertion that the differential treatment of tobacco cessation programs relative to other wellness programs is consistent with the intent of the ACA. For example, existing regulations implementing ACA provisions on Minimum Loss Ratio recognize the value of a broad range evidence-based wellness programs. In addition, regulations implementing Essential Health Benefits allow inclusion of wellness and prevention services in calculations of actuarial value.

By treating incentives for tobacco cessation programs differently from incentives for other wellness programs, the proposed rules encourage employers to offer more services for tobacco users relative to other employees who would benefit more from programs that target other health risks, such as diabetes and obesity. We are concerned that this differential treatment will cause employers and plans to shift the focus of their wellness programs to address only or primarily tobacco use, even if a more comprehensive approach to wellness is warranted.

We urge the IRS to amend the proposed regulation to ensure that it encourages employers and health plans to offer evidence-based programs that are well-suited to the needs of their individual enrollees. We would welcome the opportunity to provide additional information. If we can be of further assistance, please feel free to contact me at Vicki.shepard@healthways.com.

Yours Truly,

/signed/

Frederic S. Goldstein
Interim Executive Director

Vicki Shepard
Chair, Government Affairs Committee

² Mercer National Health Survey of Employer Sponsored Health Plans (2013)
<http://benefitcommunications.com/upload/downloads/Mercer_Survey_2013.pdf>

³ Id. at 63.

⁴ Id.

⁵ Id. at 65.