



AMERICAN BENEFITS COUNCIL

February 13, 2018

Submitted electronically via <http://www.regulations.gov>

Centers for Medicare & Medicaid Services
Office of Strategic Operations and Regulatory Affairs
Division of Regulations Development
Room C4-26-05
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

**Re: Notice; Agency Information Collection/Limited Wraparound Coverage Pilot
Document Identifier: CMS -10571**

Dear Sir or Madam:

I write on behalf of the American Benefits Council (“Council”) to provide comment in connection with the Notice summarizing an information collection request related to Limited Wraparound Coverage Reporting (“Notice”) published in the Federal Register on December 15, 2017.

The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council’s members either sponsor directly or provide services to health and retirement plans that cover more than 100 million Americans.

The Departments of Labor, Health and Human Services, and the Treasury (“Departments”) published final regulations (“Final Rule”) on March 18, 2015 under the Employee Retirement Income Security Act of 1974, the Internal Revenue Code and the Public Health Security Act to specify requirements for limited wraparound coverage to qualify as an excepted benefit. The Final Rule includes requirements that limited wraparound coverage must satisfy in order to qualify as excepted benefits, including reporting certain information to HHS.

Under the pilot program established by the Final Rule, limited wraparound coverage may be offered as "excepted benefits" if it satisfies certain conditions and the coverage was offered no earlier than January 1, 2016, and no later than December 31, 2018, and ends on the later of (1) the date that is three years after the date wraparound coverage is offered or (2) the date on which the last collective bargaining agreement relating to the plan terminates after the date wraparound coverage is offered.

In addition to soliciting comments on the reporting requirements included in the Final Rule, the Notice requests comment on the impact that an extension of the limited wraparound pilot program would have on the number of employers/sponsors participating in the limited wraparound pilot program. If HHS extends the limited wraparound pilot program, the Notice requests comment on when the limited wraparound pilot program should sunset or whether the program should be made permanent.

The availability of limited wraparound coverage should be extended beyond the end of the pilot period.

The limited wraparound coverage pilot program established under the Final Rule has provided employers with flexibility in offering coverage that best meets the needs of their plan and workforce. By allowing employers to supplement individual market coverage with limited wraparound coverage, employers have available an additional tool in designing benefit offerings for early retirees, part-time or other employees that are cost-efficient and also comprehensive in nature.

The Council is concerned that the time-limited nature of the program may have resulted in low utilization of limited wraparound coverage by employers. This is especially so given the cost, time and employee education that would be required in establishing a successful program that includes limited wraparound coverage as a component.

Large employers typically make benefit design decisions well in advance of the plan year to allow time to identify and contract with vendors, modify claims and other systems, prepare enrollment materials and conduct participant education. For most large employers this would require at least 12 months lead time. In performing a cost-benefit analysis regarding whether to offer limited wraparound coverage, employers may have concluded that the short time period during which it could be designed and implemented and the uncertainty as to the pilot program's duration was not worth the investment of time and resources required to establish a limited wraparound plan offering.

For these reasons, the Council had recommended in comments submitted in response to the proposed regulations for limited wraparound coverage that the

program be made permanent, or at the very least, that it provide a meaningful duration to allow sufficient time for employers to participate.

The Council continues to believe that limited wraparound coverage is an important coverage option that is of value to employers and employees. We request that the pilot program be made permanent and thereby provide for a permanent HIPAA-excepted category for limited wraparound coverage. In the event that the pilot program is not made permanent, we urge that it be extended at least 10 years to provide employers with a more meaningful duration to participate in the program.

Finally, any extension of the pilot program will need to be clearly communicated to stakeholders so that employers and employees may make informed decisions regarding the offering of, and enrollment in, limited wraparound coverage.

* * *

Thank you for considering these comments submitted in response to the Notice. If you have any questions or would like to discuss these comments further, please contact us at (202) 289-6700.

Sincerely,

A handwritten signature in black ink that reads "Kathryn Wilber". The signature is written in a cursive, flowing style.

Kathryn Wilber
Senior Counsel, Health Policy