May 26, 2010

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW, Room 120 F
Washington, DC 20201

Ms. Nancy-Ann Min DeParle
Director
Office for Health Reform
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Secretary Sebelius and Ms. DeParle:

We are writing to express our views on the standard the U.S. Department of Health and Human Services should use to determine which health plans are "grandfathered" under the Patient Protection and Affordable Care Act (PPACA). The standard that HHS establishes for qualifying as a grandfathered plan will have a substantial effect on how many people benefit from reforms enacted in the PPACA, including the requirement that private health insurance cover, with no cost sharing requirements, comprehensive tobacco cessation services and other preventive services recommended by the U.S. Preventive Services Task Force (USPSTF).

Sec. 1251 of PPACA permits a group health plan or health insurance coverage in which an individual was enrolled on the date of enactment (March 23, 2010) to maintain that existing coverage. This grandfathering provision exempts existing plans from many insurance market reforms and benefits in the PPACA. The statute, however, does not include specific criteria for determining how much change an existing plan can make to its coverage before it will lose its grandfather status.

Without narrow limits on the changes a grandfathered plan can make without losing their grandfathered status, many consumers will not gain access to insurance market and benefit reforms promised by the PPACA. For example, Sec. 2713 of the PPACA requires that group health plans and health insurance issuers offering coverage in the group and individual market cover all services recommended by the USPSTF and charge no cost-sharing for using them. But this requirement does not apply to grandfathered plans.

Comprehensive tobacco cessation services have received an A recommendation from the USPSTF. These services, which include counseling and FDA-approved medications, have proven to be effective at greatly increasing a tobacco user's chances of quitting successfully. To ensure that these services become widely available, we believe any change to coverage in a grandfathered health plan, other than changes that are explicitly required by the PPACA or the Health Care and Education Reconciliation Act or changes that benefit all enrollees, should result in the loss of grandfathered status (e.g., benefit changes not required by law and cost-sharing increases), as Consumer Representatives at the National Association of Insurance Commissioners have recommended.

Tobacco use is the leading preventable cause of death in the United States, responsible for more than 400,000 deaths and nearly $100 billion in health care costs each year. Smoking substantially raises the risk of heart disease, stroke, lung disease, and many types of cancer. Because nicotine is highly addictive, quitting is difficult and often requires tobacco users to make multiple quit attempts before they succeed. Tobacco users should have access to all services that have been shown to help them break their deadly addiction.

If health reform is to fulfill its promise to prevent disease and rein in costs, comprehensive tobacco cessation services and other USPSTF-recommended services should be widely available, at no cost, to people enrolled in private plans. Setting strict limits on the changes grandfathered plans can make without losing their grandfathered status will help ensure that these life-savings services are covered by group plans and insurers and are more widely used by enrollees who will benefit from them.

Sincerely,

Molly A. Daniels
Interim President
American Cancer Society Cancer Action Network

Matthew L. Myers
President
Campaign for Tobacco-Free Kids

Nancy Brown
Chief Executive Officer
American Heart Association

Rob Gould
President and Chief Executive Officer
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Charles D. Connor
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American Lung Association

Cheryl Healton
President and Chief Executive Officer
American Legacy Foundation