



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

FEB 18 2015

The Honorable Christopher Smith
U.S. House of Representatives
Washington, DC 20515

Dear Representative Smith:

Thank you for your letter regarding the *Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016* proposed rule (79 FR 70674, Nov. 26, 2014). I appreciate hearing from you regarding the guidance related to separate payments for coverage of abortion services for which federal funding is prohibited under qualified health plans (QHPs) in the Health Insurance Marketplaces.

The proposed rule provides guidance on a Marketplace issuer's responsibilities with respect to requirements related to QHP coverage of abortion services for which public funding is prohibited (non-excepted abortion services). Under section 1303(b)(2)(B) of the Affordable Care Act, as implemented in 45 CFR 156.280(e)(2)(i), individual market Marketplace issuers must collect a separate payment from each enrollee, for an amount equal to the Actuarial Value of the coverage for abortions for which public funding is prohibited. However, section 1303 of the Affordable Care Act and 45 CFR 156.280 do not specify the method an issuer must use to comply with the separate payment requirement.

The proposed rule indicated that this provision may be satisfied in a number of ways. Several such ways include, but are not limited to: sending the enrollee a single monthly invoice or bill that separately itemizes the premium amount for non-excepted abortion services; sending a separate monthly bill for these services; or sending the enrollee a notice at or soon after the time of enrollment that the monthly invoice or bill will include a separate charge for such services and specify the charge. Section 1303 of the Affordable Care Act permits, but does not require a QHP issuer to separately identify the premium for non-excepted abortion services on the monthly premium bill in order to comply with the separate payment requirement. A consumer may pay the premium for non-excepted abortion services and for all other services in a single transaction, with the issuer depositing the funds into the issuer's separate allocation accounts as required by section 1301(b)(2)(C) of the Affordable Care Act, as implemented in § 156.280(e)(2)(ii) and 156.280(e)(3). Even where a consumer makes the two separate payments (for non-excepted abortion services and for all other covered services) in a single transaction, the guidance contained in the proposed rule helps the enrollee understand that the transaction includes the two separate payments, in accordance with the statutory requirement.

The rule was open for comment until December 22, 2014. The Department of Health and Human Services is in the process of reviewing all comments received on the rule and will take your comments into consideration as we finalize the rule.

Thank you for your interest in the implementation of the Affordable Care Act. I will also provide this response to the co-signers of your letter.

Sincerely,

A handwritten signature in black ink, appearing to read "S M Burwell". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Sylvia M. Burwell