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Treasury Responds to Senators' Concerns About Health Plan Fee for Tax-Exempt, Nonprofit Hospitals.

Treasury Assistant Secretary for Legislative Affairs Alastair Fitzpayne has explained to Sen. Sherrod Brown, D-Ohio, and other Democratic senators that proposed rules (REG-118315-12) on the annual health insurer fee under the Affordable Care Act require nonprofit, tax-exempt hospitals to take into account only a portion of their net premiums when calculating the fee.

September 12, 2013

The Honorable Elizabeth Warren

United States Senate

Washington, DC 20510

Dear Senator Warren:

Thank you for your follow up letter regarding the annual health insurer fee under section 9010 of the Patient Protection and Affordable Care Act. We received several comment letters on the proposed regulations, which were issued on March 1, 2013, from stakeholders regarding the issue raised in your letter. We are carefully considering these comments as we work to finalize the regulations.

As I mentioned in my response to your previous letter on this topic, proposed regulations on the annual health insurer fee reiterate the rule provided in the statute. Under the statute, the fee does not apply to the first \$25 million of net premiums written, and it only applies to 50 percent of the net premiums written for amounts between \$25 million and \$50 million. After application of this rule and in accordance with the statute, the proposed regulations provide that a covered entity exempt from tax under section 501(a) and described in section 501(c)(3) (generally, a charity), 501(c)(4) (generally, a social welfare organization), section 501(c)(26) (generally, a high-risk health insurance pool), or section 501(c)(29) (a consumer operated and oriented plan health insurance issuer) will be required to take into account only 50 percent of its remaining net premiums written that are attributable to its exempt activities.

We appreciate the concerns expressed in your letter regarding the way the fee will be applied, and we look forward to working with you and your staff on these and other important ACA implementation issues.

Sincerely,

Alastair M. Fitzpayne

Assistant Secretary for Legislative

