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Insurance Company Seeks Discounted Health Plan Fee for Tax-Exempt, Nonprofit Hospitals.

James Fritz of Bluegrass Family Health has urged Treasury to classify health plans owned by nonprofit, tax-exempt hospitals or hospital systems in the same category as other nonprofit, tax-exempt health plans, which would give the hospital plans a 50 percent discount on the insurance plan fee required under the Affordable Care Act.

May 16, 2013

The Honorable Jacob Lew

Secretary of the Treasury

United States Department of the Treasury

1500 Pennsylvania Avenue, NW, Room 3330

Washington, DC 20220

RE: REG-118315-12: Health Insurance Providers Fee

Dear Secretary Lew:

We write on a matter of concern to a number of federally taxable regional health insurance plans owned by tax-exempt hospitals and health care systems. These hospital-owned health plans (HHPs) are unique because they are entirely owned and controlled by parents that are tax-exempt under section 501(a) of the Internal Revenue Code (IRC) and are further described in section 501(c). Despite paying taxes under the IRC, HHPs function more similarly to nonprofit entities because they must reinvest whatever marginal profits they produce each year into the hospital parent's charitable mission. HHPs were originally created as taxable entities due to the prevailing physician ownership model at the time of their founding. However, as the ownership model moved away from physician ownership, HHPs found it nearly impossible to convert to nonprofit status due to the evolving interpretation of section 501(m) of the IRC. As a result, HHPs will be assessed at unsustainable levels under REG-118315-12: Health Insurance Providers Fee ("the insurer fee") and will likely be forced to significantly limit services or exit the market altogether. Either outcome will negatively affect the communities that HHPs serve by impacting the charitable activities of their parent hospitals.

The recently released rules implementing Section 9010 of the Patient Protection and Affordable Care Act (ACA) failed to curtail the implementation of the insurer fee on this specific group of health plans. In § 57.4(a)(4)(iii) of the insurer fee, the ACA is interpreted as granting partial reductions for certain exempt activities to health insurers that are exempt from Federal income tax and meet section 501(c) requirements. We believe HHPs should be included in this category of health plans that receive partial reductions because, like other nonprofit health plans, HHP premiums are attributable to the exempt activities of their parent nonprofit, tax-exempt hospitals and health systems. We urge you to provide relief to these plans from the insurer fee, consistent with the treatment of other tax exempt providers.

We are concerned that these taxable health plans owned entirely by nonprofit, tax-exempt hospitals or health systems appear to be included in a group of health plans that receive no exemptions from the insurer fee, while other nonprofit insurance providers receive either a partial or full exemption. We believe HHPs should receive a 50 percent exemption from the insurer fee because they are an essential part of the communities they serve.

HHPs operate differently than traditional for-profit health plans and should be treated accordingly. The parent hospitals and health systems, exempt under Internal Revenue Code Section 501(c)(3) and Section 501(c)(4), are required to hold and use all of their assets and earnings for tax-exempt, charitable purposes. This requirement extends to the equity and earnings of wholly owned/controlled taxable subsidiaries, such as HHPs. Therefore, the cost of the insurer fee that a HHP will be required to pay under the proposed regulation will ultimately reduce the resources of the parent hospital or health system to fulfill their charitable missions. The imposition of the fee on these hospitals and health systems will detract from the organization’s mission and the vital community services they provide. To impose the insurer fee on these community-based providers is not sustainable and will have a damaging effect on the communities that these plans serve.

We believe that if no relief is granted to these hospital-owned health plans in the final regulations, these types of health plans will be assessed approximately $200 million in fees in 2014 under the insurer fee. This will make it impossible for these plans to continue to offer quality, locally-based compassionate health care. The imposition of the full insurer fee on these providers may drive HHPs from the marketplace, thus limiting the choices available in these areas.

Classifying these 28 health plans with other non-profit tax-exempt health insurers appears to be in alignment with the federal government’s tax exempt policies. These plans share the same charitable mission-driven agendas of their parent nonprofit health systems and should be treated in the same manner as other tax-exempt entities. Adding these plans to the 50 percent tax exempt category would increase the fees of the health plans remaining in the non-exempt category by only about 1.8 percent, resulting in a de minimis impact on the health insurance marketplace.

We greatly appreciate your willingness to continue refining your approach and hope you will grant these hospital-owned health plans a 50 percent exemption from the Health Insurance Providers Fee.

Sincerely,

James S. Fritz

President & CEO

Bluegrass Family Health

Lexington, KY