

December 3, 2014

Robin J. Lerner
Deputy Assistant Secretary for Private Sector Exchange
SA-5, Floor 5
U.S. Department of State
2200 C Street NW
Washington, DC 20522-0505

Via Email: JExchanges@state.gov Subject: RIN (4100-AC36)

**Re: 22 CFR Part 62
Public Notice 8893
Exchange Visitor Program -- General Provisions; Final Rule**

Dear Secretary Lerner:

On behalf of the American College Health Association (ACHA), I write in response to the Department of State's October 6, 2014 Final Rule - *Exchange Visitor Program -- General Provisions* noting the Department's promulgation of this rule but with request/solicitation of comments. Specifically, I write with regard to insurance requirements (§ 62.14 Insurance) as discussed on page 60304 and set forth on page 60316 of the Federal Register. ACHA is a non-profit national health association that represents multidisciplinary college and university health professionals whose principal collective interest is to advance the health of the nation's 20 million college students. Comprised of more than 2,800 physicians, nurses, and other clinical providers, mental health providers, health promotion professionals, health administrators, pharmacists and support staff in nearly 900 student health centers, ACHA has long supported the provision of high quality, comprehensive and affordable health coverage for the nation's college students, therefore we appreciate the opportunity to provide comment on this rule impacting students and scholars.

Upon review, we are concerned that the health insurance coverage requirements are not more robust and are inconsistent with the Administration's intent of improved coverage and consumer protection under the Affordable Care Act (ACA). The inclusion of dollar limits (caps) on certain coverage, permissible waiting periods for pre-existing condition coverage, non-industry standard deductibles, and the absence of both a limit on out-of-pocket expenses and carrier accountability are each problematic and should be addressed to assure high-quality and affordable coverage for exchange students comparable to the reforms that enhanced the quality of student health insurance under the ACA. With data from the Institute of International Education showing a steadily increasing number of international students enrolled at United States (U.S.) institutions of higher education (72 percent increase since 2000), ACHA feels that it is even more important that new insurance requirements for exchange visitors mirror the ACA to the fullest extent possible. While certain short-term limited duration insurance may be allowable under current law for periods of less than 12 months, exchange visitors are in the U.S. for longer periods, and hence should not be allowed to carry insurance that is sub-par by ACA standards. Consumer protection and insurance carrier accountability remain important, even for exchange visitors.

Dollar Limits

Notwithstanding the Department's review of earlier comments and its decision to increase coverage by \$50,000 (to \$100,000), this level of coverage does not align with the requirements and rationale of the ACA. Under the ACA, most health plans or insurance policies are not

permitted to impose dollar limits on most covered benefits (either lifetime limits or annual limits). In fact, in implementing the ACA with regard to student health insurance plans, the Department of Health and Human Services established a complete elimination of the annual dollar limits (accompanied by a gradual transition). Student health insurance plans must now be fully compliant with PHS Act Section 2711, thereby being prohibited from annual limits. ACHA views exchange students/visitors as deserving of the same enhancements and protections to ensure that they are not exposed to significant financial risk in the event of an illness or accident.

Waiting Periods for Pre-Existing Condition Coverage

Allowing insurance plans for exchange visitors to include a waiting period for pre-existing conditions that is “*reasonable as determined by current industry standards*” stands contrary to another key consumer protection tenet of the ACA. We respectfully suggest that the continuance of this provision itself is **not** (or no longer) industry standard in the U.S. We note that the PHS Act Section 2704 sets forth that “*A group health plan and a health insurance issuer offering group or individual health insurance coverage may not impose any preexisting condition exclusion with respect to such plan or coverage.*”

Deductibles

Likewise, permitting exchange visitor insurance coverage to include cost-sharing “*Deductibles not to exceed \$500 per accident or illness*” is also **not** (or no longer) industry standard. Deductibles are no longer applied on a per accident or illness basis, but rather on an annual basis. Hence, we recommend that “*Annual deductible not to exceed...*” be the more appropriate provision. Further, we recommend that the deductible amount be increased to better reflect changes in the insurance industry over the last 20 years. A deductible of \$500 is at the “Platinum” level when considered in relation to individual plan offerings. For plans issued in the U.S., it may be increasingly difficult to offer plans to exchange students that meet the \$500 deductible level (even though those same plans are deemed to provide more than adequate coverage under the ACA). There could be a real danger that a sponsoring institution may be able to meet one federal requirement, but not the other. Similarly, an exchange visitor that is subject to the ACA individual mandate may have to enroll in a “Platinum” Marketplace plan in order to satisfy the J-Visa requirement, even though a lower tier of metal coverage would meet the ACA requirement.

Maximum Out-Of-Pocket Expenses

Adding a separate “maximum out-of-pocket” (MOOP) requirement would add a level of accountability that is not currently there. Under the ACA, individual plans are permitted to set an annual MOOP of \$6,600 per individual. By not having a MOOP requirement there is a risk that exchange visitors that are covered by short-term limited duration insurance or a travel insurance policy could be subject to crippling out-of-pocket costs in the event of a serious accident or illness.

Carrier Accountability

Under the ACA, individual insurance plans are required to spend at least 80% of premium dollars on medical care (the Medical Loss Ratio). These plans also must adhere to specified Actuarial Values based on the provision of Essential Health Benefits (EHB). The absence of equivalent requirements in this rule means that plans serving exchange visitors may offer coverage without the same level of accountability and consumer protection provided by ACA compliant plans. Again, in the event of an accident or illness, the risk of significant financial exposure for an exchange visitor is no less than a domestic student or dependent, and we strongly suggest that they should be afforded the same protections advanced by the ACA.

Perhaps an altogether better approach for the coverage of exchange visitors would be to require those policies to be of the caliber that would warrant recognition as Minimum Essential Coverage (MEC) under the ACA. There is already a precedent for applying this requirement to other types of health plans, thus by meeting “substantially all” of the requirements of Title I of the ACA that apply to non-grandfathered plans in the individual market, exchange visitors would benefit from the enhancements and consumer protections of other beneficiaries. Application of MEC in this regard would also mean that the limited number of exchange visitors that are subject to the Individual Mandate under the ACA (non-resident aliens for tax purposes), would have coverage that already satisfies that requirement.

While we acknowledge that it may not be possible to apply the full scope of the ACA to exchange visitor insurance requirements, we believe that, at a minimum, lifetime and annual limits should be prohibited along with any waiting periods for the coverage of pre-existing conditions, corresponding with sections 2711 and 2704 of the PHS Act, respectively. A more industry-standard deductible and carrier accountability are also desirable features. Ideally, exchange visitor insurance coverage should be of sufficient quality to meet the MEC threshold as set forth in the ACA.

Again we thank you for the opportunity to comment. Please let me know if we can provide any additional information that would be helpful as you consider changes in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Van Orman". The signature is fluid and cursive, with the first name "Sarah" and last name "Orman" clearly distinguishable.

Sarah Van Orman, MD, MMM, FACHA
President
American College Health Association