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December 21, 2012

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9972-P, Mail Stop C4-26-05,
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: Comments Submission for: CMS-9972-P; Market Rules; Rate Review
CMS-9964-P; HHS Notice of Benefit and Payment Parameters for 2014

Dear Sir or Madam:

The Lookout Mountain Group (LMG) was formed in February of 2009 to consider the impact of health care reform for the nation's college student population. We are a non-partisan study group composed of college and university student health and student affairs professionals, student leaders, risk managers, and employee benefit/student health program consultants/actuaries, and attorneys specializing in insurance regulatory law. We appreciate the careful consideration HHS devoted to the final rule issued in March 21, 2012 ([CMS-9981-F, Student Health Insurance Coverage](#)), to assure, as specified in Section 1560(c) of the Affordable Care Act, that *"Nothing in this title (or an amendment made by this title) shall be construed to prohibit an institution of higher education (as such term is defined for purposes of the Higher Education Act of 1965) from offering a student health insurance plan, to the extent such requirement is otherwise permitted under applicable federal, state, or local law."* The LMG strongly supports the transition HHS rules specify for student health insurance plans to fully comply with essential benefits in 2014, and we agree with the exemptions provided for guaranteed availability of coverage (§147.104) and guaranteed renewability of coverage (§147.106).

We are now taking this opportunity to comment on the captioned proposed rules relative to their impact on student health insurance programs. We appreciate that the HHS Notice of Benefit and Payment Parameters for 2014 proposes to regulate student health insurance plans, as stated on page 36 of the proposed rule, *"... as a separate group that would not be subject to risk adjustment charges and would not receive risk adjustment payments. Therefore, these plans would not be subject to the issuer requirements described in subparts G and H of part 153."* We are concerned, however, that this provision does not also exclude student health insurance plans from the *Market Rules; Rate Review* proposed rule specifying on page 62 that *"... student health insurance coverage would be included in an issuer's individual market single risk pool, as described below."*

Summary Requested Action: Based on the opinions of our LMG member consultants and actuaries, and recent communication with major student health insurance vendors, we are concerned that the imposition of individual market rules on student health insurance plans, other than requirements for providing essential benefits and for having a minimum mandated medical loss ratio, could be so disruptive that such rules could be tantamount to prohibiting colleges and universities from offering student health insurance plans in many states. Accordingly, we request HHS use its authority under



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Section 1560(c) of the Affordable Care Act to exclude student health insurance plans from all individual market rules other than those provisions relating to required minimum medical loss ratios and providing essential benefits.

We suggest this action is warranted based on the following three factors that are unique to the operation of student health insurance plans.

1. Equitability for Students' Pre-Funding of Health, Counseling, and Health Promotion Services

Including student health insurance plans in individual market single risk pools or other community rating systems would unfairly penalize students by failing to provide appropriate credit for the substantial student administrative health fees they have already paid.*

* In the final rule for student health insurance plans, HHS recognized the widespread existence of health fee and/or institutional funding allocations to provide students with primary care services, counseling services, and a broad spectrum of preventive care services. On page 16454 of the Federal Register, the following was noted in regard Student Administrative Health Fees: "The proposed rule would clarify that student administrative health fees were not cost-sharing for purposes of PHS Act section 2713, which requires that certain preventive services be covered without cost-sharing. Student administrative health fees were defined as fees charged by institutions of higher education on a periodic basis to provide health care through school clinics, regardless of whether students utilize the clinics or enroll in student health insurance coverage."

2. Required Benefits for Maternity and Eligibility for Individuals with High Risk Conditions

HHS found that risk adjustment was warranted, in part, based on a conclusion stated on pages 34-35 of the Notice of Benefit and Payment Parameters for 2014 that *"In the current market, plans are generally not subject to the insurance market reforms that begin in 2014 . . . and so are generally able to minimize actuarial risk by excluding certain conditions (for example, maternity coverage for women of child-bearing age), denying coverage to those with certain high-risk conditions, and by pricing individual premiums to cover the costs of providing coverage to an individual with those conditions."* Student health insurance plans do not function within this assessment as they are required to provide pregnancy benefits on the same basis as any other temporary disability under Title IX of the Education Amendments of 1972 (P.L. No. 92-318, 86 Stat. 373) and are precluded from denying coverage to individuals with high risk conditions due to provisions in Section 504 of the Rehabilitation Act of 1973 (P.L. No. 93-112). Student health insurance plans are also limited in how age-based costs can be used under the Age Discrimination Act of 1975 (P.L. No. 94-135).

3. Campus Safety Warrants Cost Advantage

Any cost advantage for student health insurance plans over insurance exchange or individual health insurance programs as a result of being excluded from individual market rules and risk adjustments is justifiable given the essential role these programs have in promoting campus safety. The LMG noted the following in its comment submission to HHS for the final rules for student health insurance plans.

"Beyond nominal compliance with the Section 1560(c) rule of construction, there is a compelling rationale for why regulations should facilitate the long-term



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existence of SHIBPs [student health insurance/benefit programs]. These programs can provide effective benefit integration with campus based health and counseling services, access to services to best assure personal safety and campus safety, and cost advantages for student consumers and parents, including the not-for-profit operation of self-funded programs. It is likely that continued employer cost shifting, and relative cost disadvantages for insurance exchange products, will result in almost all students being covered by SHIBPs on campuses where they are provided. This consolidation of students into a single, college- or university-provided student health plan will increase campus safety and provide the opportunity for highly effective pre-funding arrangements for on-campus services and opportunities for maximum financial return and health care delivery/purchasing effectiveness."

The concern for campus safety is growing in importance, and prospectively having most students on residential campuses ultimately covered by student health benefits plans that are designed to meet their specific needs, and coordinate benefits and services with the operation of on-campus health and counseling services, is the most cost effective and broadest coverage policy option. This is particularly true as we see the increasing adoption of high deductible health plans. Effective student health insurance plans are almost always designed to reflect the limited financial resources of students, and are expected to continue to feature reasonable cost sharing benefit design components. We encourage you to refer to the [Lookout Mountain Groups major report of June 2, 2009](#), for fundamental principles relating to campus safety and the integral role that student health insurance plans play in the operation of college health programs.

Please contact me if you have any questions regarding this comment submission.

Sincerely yours,

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