



September 27, 2010

The Honorable Michael B. Enzi
United States Senate
379A Senate Russell Building
Washington, DC 20510

Dear Senator Enzi:

I write to lend the support of the National Retail Federation (NRF) to the resolution of congressional disapproval (S.J. Res. 39) you have recently introduced to block the “grandfathered plan” regulations. We strongly support and endorse your effort and urge that the resolution be promptly adopted.

We are also concerned that regulators have taken too narrow a view of the grandfathered plan regulation. NRF’s formal comments (submitted on August 16, 2010) noted in part that: “[o]ur concern is that the [interim final regulation’s] rigid, trip-wire rules make it entirely too possible (if not probable) that a plan that elects grandfathered plan status will not be able to maintain that status for long. Many plans may not even bother to elect grandfathered plan status.” Our letter recommended several specific steps to improve the grandfathered plan regulation:

1. Allow employers to change insurance carriers without losing grandfathered status provided that:
 - The coverage is actuarially equivalent or better, and that
 - Provider networks are substantially equivalent.
 - Prohibiting a change in carriers will needlessly inhibit competition bases on price and quality of service.

2. Allow for improvements in prescription drug formularies and provider networks without jeopardizing grandfathered plan status.
 - New drugs come onto the market with great regularity and medical practice changes quickly. Formulary changes in the interest of plan beneficiaries are appropriate and necessary.
 - Provider networks require regular maintenance to allow for retirements, addition of new providers and to maintain network quality. Reasonable changes that do not compromise ongoing treatment should be allowed.

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3. Provide greater flexibility to manage future medical inflation.

- Changes in fixed dollar cost sharing should be made on a year-to-year basis rather than be based on March 23, 2010 and percentage increases from that.

We strongly concur with your view that a formal resolution of congressional disapproval is the appropriate next step under existing law. We urge its prompt adoption. Again, NRF commends you for introducing this legislation. If you have any questions, please contact Neil Trautwein (202-626-8170 / trautweinn@nrf.com), NRF's Vice President, Employee Benefits Policy Counsel.

Sincerely,

A handwritten signature in black ink that reads "Steve Pfister". The signature is written in a cursive, flowing style.

Steve Pfister
Senior Vice President
Government Relations