

August 15, 2016

The Honorable Thomas Perez
Secretary of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

RE: RIN-1290-AA31

Comments Submitted Electronically via www.regulations.gov

Dear Secretary Perez:

I am writing on behalf of the National Association of Health Underwriters (NAHU), a professional association representing more than 100,000 licensed health insurance agents, brokers, general agents, consultants and employee benefit specialists nationally. The members of NAHU work on a daily basis to help employers purchase, administer and utilize health insurance coverage and manage their group benefit plans that are regulated by the Department of Labor under the authority of the Employee Income Retiree Security Act (ERISA). As such, we are pleased to have the opportunity to provide comments on the interim final rule "Civil Penalties Inflation Adjustment Act Catch-Up Adjustments," published in Volume 81, No. 127 of the *Federal Register*.

NAHU greatly appreciates the willingness of the DOL to accept comments from stakeholders on the proposed increases in civil penalties outlined in the interim final rule. NAHU members have a specific interest in the proposed increases in civil monetary penalties administered by the Employee Benefit Security Administration (EBSA) to enforce ERISA as amended and how such increases in penalties could impact the employers they serve and their ability to offer group health insurance benefits.

NAHU recognizes that the amount of the civil penalties has not been increased since ERISA and the various statutes that have amended it were enacted, and we believe that the formula used to increase the penalties was fairly applied in the interim final rule. However, we question the decision to impose increased penalties on employers at this time. The requirements of the Patient Protection and Affordable Care Act (ACA) have put significant new compliance and reporting responsibilities on employer group benefit plans. The law and its resulting regulations have also had a dramatic impact on employer group health plan structures, pricing and choices. Keeping up with the new requirements is costly and complicated, and employers need to devote many more resources toward maintenance and development than ever before, both financially and through the dedication of staff to manage compliance responsibilities. Even for employers with the best of intentions and a wide range of resources to devote to their group benefit plans, keeping up with the requirements and ensuring thorough compliance is overwhelming. Smaller employers and those with fewer resources often do not even know where to start.

Given that the fines established originally to help ensure compliance with ERISA and subsequent health plan requirements have always been significant and are still intimidating to employers in some cases over four decades later, we do not believe that an increase at the current time is needed. In fact, it is our concern that increasing the potential penalties could have a detrimental impact on an employer's potential willingness to offer group benefits, particularly for smaller employers that have not previously offered coverage. Instead, NAHU believes it would be more beneficial to employers and their group benefit plan beneficiaries if the DOL would devote more resources to helping plans comply with the requirements of ERISA and its subsequent amendments. If the goal is to ensure that all group health plan beneficiaries receive the protections afforded to them under the law, then greater education for health plan administrators, sample compliance materials, checklists, online resources and guidance would be much

more effective than imposing higher fines. NAHU urges you to focus on these endeavors and delay the implementation of high fines for ERISA violations for group health benefit plans.

NAHU sincerely appreciates the opportunity to provide comments on the interim final rule and its potential impact on our members and their clients. If you have any questions about our comments or need more information, please do not hesitate to contact me at either (202) 595-0787 or jtrautwein@nahu.org.

Sincerely,

Janet Stokes Trautwein
Executive Vice President and CEO
National Association of Health Underwriters