

SAN FRANCISCO LABOR COUNCIL

Notice 2015-16

MAY 26 2015

PUBLIC EMPLOYEES COMMITTEE

CC:PA:LPD:PR (Notice 2015-16), Room 5203
Internal Revenue Service
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

May 20, 2015

Dear Ms. Levin:

These comments are being sent in response to the Internal Revenue Service's recent regulatory guidance (Notice 2015-6) regarding the proposed excise tax on high cost employer-sponsored health coverage under §4980I of the Internal Revenue Code.

The Public Employees Council represents over 20 unions and 20,000 working members and dependents. We bargain for our health coverage and have paid increasing premiums year over year largely attributed to the high cost of medical care and exponentially rising pharmacy costs. It was organized labor that first negotiated employer sponsored health care over 80 years ago. Labor has long sacrificed wages for tax-free health benefits under §106 of the Internal Revenue Code because we believe that healthy workers are productive workers, and healthy families keep workers at work.

We have long understood the importance of controlling ever increasing health care costs in order to be able to negotiate wage increases for our members. We are working to improve the health of our members, and to encourage prudent use of health benefits. We agree with the intention of the "Cadillac" or excise tax: to decrease excessively generous employer-sponsored health insurance packages. However, as written, the tax thresholds are very blunt instruments and in fact discourage employer coverage and early retiree coverage in some high cost geographic areas.

Northern California's health costs far outpace Southern California and in fact outpace all but a few places in the nation. Northern California employers have long relied on highly cost effective predominantly managed care coverage for employees and retirees alike. Managed care benefits are governed by California state law and are not "generous" packages.

We recommend that rather than dollar limits on coverage, "excessively generous" "applicable" coverage be defined with specific benefits.

We agree to the suggestion of not including self-insured dental and vision coverage or employee assistance programs (EAPs) in the definition of applicable coverage and would suggest adding other benefits that will improve the quality of health care coverage for our members, such as wellness programs, chronic disease prevention, management coaching programs and on-site clinics providing preventive and primary care.

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The regulations as written include both the employee and employer share of the premium. They also include Flexible Spending Accounts (FSAs) used to offset out-of-pocket costs such as copays. Copays for physician visits, pharmaceuticals, lab work and diagnostic testing are increased in plan designs to reduce premiums and to remain under the excise tax thresholds. Copays place an undue burden on families, and early retirees with chronic illnesses while doing nothing to reduce the overall cost of care. Eliminating FSAs places additional burdens on families and people with chronic illness who must use post-tax dollars rather than pretax dollars on necessary coverage. Employee contributions to these accounts should continue to receive their traditional tax preference.

As part of our union negotiations we have ensured that early retirees have access to employer sponsored health coverage. We support the allowing of blending pre-Medicare and Medicare eligible retiree coverage costs. Without this provision the high cost of coverage for the pre-65 retirees will trigger the excise tax and place a burden on employers and employees alike.

We request that the fees and taxes (HIT-Health Insurance Tax, Patient Centered Outcome Research Institute -PCORI fee, Transitional Care fee) that the Affordable Care Act added to premiums be exempt from this tax.

We respectfully submit these comments and hope they will be considered so that this tax is not unfairly applied due to geographic area, or age. And that tax preferred options remain available to chronically ill and families who will spend a larger proportion of their income on copays. We are currently negotiating premium rates with insurers for calendar year 2016. We urge the prompt promulgation of these regulations for further comment by January 2016 and then final regulations by January of 2017, if not earlier, so plan changes can be negotiated with carriers.

On behalf of the following unions:

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Municipal Executives Association

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