

UNITED CONCORDIA®

May 15, 2015

The Honorable Jacob J. Lew
The Honorable John Koskinen, Internal Revenue Service
Internal Revenue Service
CC:PA:LPD:PR (Notice 2015-16)
1111 Constitution Avenue, NW
Washington, DC 20044

Submitted via E-Mail to: Notice.comments@irs.counsel.treas.gov

RE: Notice 2015-16, Section 4980I — Excise Tax on High Cost Employer-Sponsored Health Coverage

Dear Secretary Lew and Commissioner Koskinen:

United Concordia Companies, Inc. ("United Concordia") appreciates the opportunity to offer comments to the Internal Revenue Service ("IRS") on Notice 2015-16, Section 4980I — Excise Tax on High Cost Employer-Sponsored Health Coverage.

United Concordia is one of the nation's largest dental insurers, serving more than 7 million members worldwide. United Concordia operates eleven subsidiary companies licensed to transact health insurance and/or dental managed care in all fifty states and the District of Columbia. Through its subsidiaries, United Concordia offers limited scope dental plans to fully-insured group health plans and administers limited scope self-insured dental plans. As such, our comments are specific to **Section III. Definition of Applicable Coverage, Paragraph F. Limited Scope Dental and Vision Benefits** of the Notice.

Issue:

Section 4980I(d)(1)(B)(ii) excludes from applicable coverage "any coverage under a separate policy, certificate, or contract of insurance which provides benefits substantially all of which are for treatment of the mouth (including any organ or structure within the mouth) or for treatment of the eye." The Treasury and the IRS have recently amended the excepted benefit regulations under § 9831 on limited scope dental and vision benefits with the stated purpose of "achieving greater consistency between insured and self-insured coverage." Because 4980I(d)(1)(B)(ii) refers only to dental and vision benefits that are provided under a "separate policy, certificate or contract of insurance," self-insured limited scope dental and vision could arguably be included in the definition of applicable coverage absent guidance to the contrary.

Recommendation:

As the Treasury and IRS finalize regulatory guidance regarding the Excise Tax, we recommend that the Treasury and the IRS exercise their authority under § 4980I(g) to exclude from the definition of applicable coverage all benefits that meet the criteria to qualify as an excepted benefit, including limited scope self-insured dental and vision coverage, in accordance with the

final regulations issued under § 9831. Further, we applaud the intent of Treasury and IRS to do so, as indicated in the draft Notice.

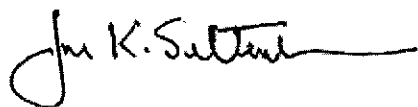
Rationale:

Starting with the Health Insurance Portability and Accountability Act (HIPAA) in 1996 and continuing with the Affordable Care Act, Congress has specifically enacted health care laws that avoid imposing certain requirements on excepted benefits. Services provided by limited scope dental and vision plans and other excepted benefits by definition are limited in scope and tangential to major medical care, and as such should not constitute applicable coverage under 4980I.

As stated, excepted benefits are generally not subject to Affordable Care Act requirements. The Treasury and the IRS have recently issued guidance under § 9831 that amended the criteria for limited scope dental and vision to qualify as an excepted benefit with the stated purpose of achieving greater consistency between fully-insured and self-insured coverage. In addition, 4980I generally recognizes that excepted benefits are not applicable coverage and generally does not make relevant fully-insured versus self-insured coverage. We agree that a distinction based on how an excepted benefit is administered should not be relevant to application of the Excise Tax. As a result, it is consistent with the intent of 4980I to exclude from the definition of applicable coverage the self-insured limited scope dental and vision coverage contemplated under § 9831.

Thank you for the opportunity to comment on this Notice and for considering our comments. Please let me know if I can provide further clarification.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon K. Seltenheim". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jon Seltenheim
Senior Vice President, Business & Government Strategy
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