

October 4, 2010

Mr. Jim Mayhew
Office of Consumer Information and Oversight
Department of Health and Human Services
Attention: OCIO – 9989 – NC
P.O. Box 8010
Baltimore, MD 21244-8010

Re: Goodwill Industries International's Comments on the Planning and Establishment of State-Level Exchange-Related Provisions in Title I of the Patient Protection and Affordable Care Act

Dear Mr. Mayhew:

Goodwill Industries International (GII) appreciates the opportunity to provide comments regarding the Exchange-related provisions in Title I of the Patient Protections and Affordable Care Act (Affordable Care Act or "ACA"). Goodwill applauds the Department of Health and Human Services' (HHS) efforts to gather feedback and input from interested stakeholders. Goodwill is providing the following comments so that HHS can consider the impact of implementing exchange-related provisions upon non-profits agencies, like Goodwill, that provide job training and assistance to individuals with barriers to employment.

GII is a non-profit organization representing 158 local Goodwill agencies in the United States. Its mission is to enhance the dignity and quality of life of individuals, families and communities by eliminating barriers to opportunity and helping people in need reach their fullest potential through the power of work. Goodwill is very proud of its long history of helping people to find jobs and advance in careers. In 2009, the Goodwill network raised nearly \$3.7 billion through its retail, contracts, and mission services operations. Nearly 83 percent of the funds Goodwill raised in 2009 were used to supplement government investments in job training and other supportive services; resulting in nearly 2 million served by local Goodwill agencies in 2009.

K. Employer Participation

GII is submitting comments regarding the establishment of the Small Business Health Options Programs, referred to as SHOP Exchanges in section 1311 (b) (1) (B) of the new law. As you know, SHOP Exchanges are designed to assist qualified, small employers in facilitating the enrollment of their employees in Qualified Health Plans (QHPs) offered in states' small group markets. GII believes that SHOP Exchanges may assist certain local

Goodwill agencies to help their employees to purchase affordable coverage through the Exchanges.

However, with regards to question 2 in FR DOC 2010-18924 under subtitle K. Employer Participation, “What factors are important for consideration in determining the employer size limit (e.g., 50 versus 100) for participation in a given state’s Exchange,”

GII believes that several factors must be taken into consideration when determining the employer size limit for participation in a given state’s Exchange. GII believes that HHS should provide additional guidance and clarification with respect to employer size limit provisions in order to determine who qualifies as a small employer.

Most Goodwill agencies provide “transitional employment” opportunities to people in their communities who have challenges that make it difficult to attach or reattach to the workforce. The time spent in transitional employment varies widely among participants, but generally ranges up to eighteen months. By working for a Goodwill agency in one of its retail or contract operations, people who are engaged in transitional employment activities are able to earn paychecks while learning critical skills on the job while being supported by Goodwill workforce development professionals who help them to access additional supportive services needed to find jobs and succeed in careers. In 2009, Goodwill placed more than 90,000 people – many from transitional jobs programs – in competitive employment positions outside of Goodwill. Many of these are likely to be placements with employers that are expected to provide health insurance benefits to employees once the new law is fully implemented.

While Goodwill agrees with the goal of extending health insurance coverage to those who are currently uninsured, Goodwill is concerned that including “transitional employment” under the definition of an employee could create a disincentive for agencies to provide transitional employment opportunities in many Goodwill agencies. To be clear, GII is not suggesting that local Goodwill agencies should be exempt from providing health insurance benefits to individuals who are permanent full-time employees. However, should transitional employment be included under the definition of an employee, local Goodwill agencies inform us that they would be forced to reduce the number of transitional employment opportunities available in order to offset costs associated with providing health coverage to remaining transitional employment participants. Smaller Goodwill agencies (those that employ nearly 50 or 100 people, not including individuals being served in transitional employment programs) would face an additional transitional jobs disincentive since including transitional employees under the definition of an employee may cause certain Goodwill agencies to exceed the 50 or 100 employee limit; therefore disqualifying these agencies from receiving SHOP Exchange assistance.

As noted earlier, Goodwill served nearly 2 million people in 2009 and certainly wants those people to have access to health care. Therefore, Goodwill believes that people who are participating in transitional employment activities should be covered by SHOP exchanges. This would allow Goodwill to continue helping people to get jobs that provide health coverage while ensuring that transitional jobs participants have access to

coverage as they learn skills in the context of employment that will likely lead to full-time employment and employer-provided health care coverage.

Therefore, Goodwill Industries International makes the following recommendations regarding definitions and factors that should be taken into consideration when determining the employer size limit for participation in a given state's SHOP Exchange:

- Goodwill urges the Administration to adopt guidelines that would allow community-based non-profit organizations that provide transitional employment opportunities to be exempt from reporting "transitional employees" as permanent employees in order to qualify for SHOP Exchange assistance.
- Goodwill recommends defining transitional employment as a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most severe disabilities, and "hard to employ" populations such as the target populations under the Work Opportunity Tax Credit and, dislocated workers over the age of 55, low-income single heads of households, homeless, non-native English speakers, people who have been unemployed for three consecutive unemployment insurance quarters in the past two years and individuals with literacy levels below eighth grade comprehension. Ongoing support services must include continuing sequential job placements until job permanency is achieved and could last up to eighteen months depending on employees' individual performances.

In addition, Goodwill believes that the definition of a "small business" should be clarified. For a number of reasons, it has been necessary for some local Goodwill agencies to establish affiliated organizations or entities. It is not clear in this provision whether a small business includes parent organizations only or affiliated entities as well. Goodwill is concerned that limiting the definition of a small business to parent organizations could create an additional incentive for local Goodwill agencies to form affiliate organizations in order to qualify for assistance under the SHOP Exchanges. Therefore, Goodwill makes the following recommendation regarding factors that should be taken into consideration when determining what constitutes a small business in relation to qualifying for SHOP Exchange benefits:

- GII recommends that a definition in relation to small businesses under Exchange-related provisions should consider affiliate organizations when determining small business status. Goodwill urges HHS to consider including an exemption for non-profits, like Goodwill, who hire "transitional employees," to not be required to report "transitional employees" from affiliated entities as permanent employees. Doing so would prevent the break up of Goodwill agencies into smaller subsidiaries in order to qualify for SHOP Exchange benefits. This in turn would allow Goodwill agencies to continue to acquire contracts that provide work opportunities for people with employment challenges.


Finally, with regards to question 4, "what other issues are there of interest to employers with respect to their participation in Exchanges," Goodwill urges the Department to take

steps to minimize administrative red tape for a number of local Goodwill agencies that provide job training and supportive services and operate self-sustaining non-profit business enterprises in more than one state. Goodwill is concerned that complying with multiple state laws would present an administrative burden to employers that hire individuals in multiple states, and may exclude some small businesses from qualifying for SHOP Exchange benefits. Therefore, GII makes the following recommendation.

- GII recommends clarifying that employers, regardless of where their employees reside, are only required to meet the qualifications for SHOP Exchanges based on employers' headquarter address; however, employees of businesses that operate in numerous states should be allowed to participate in their own state's Exchange program.

Goodwill believes that this request for comments is a significant step forward for providing quality affordable care for consumers. We believe that the concerns and recommendations outlined in this letter will strengthen the Exchange-related provisions in significant ways. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Seth Turner". The signature is written in a cursive style with a long horizontal stroke at the end.

Seth Turner
Senior Director of Government Affairs and Public Policy