

Attention Employers, Is Your Health Plan “Grandfathered?”

The health care reform law contains many provisions that will affect your business and your employees. The extent of the impact will depend, in part, on whether you maintained a health care plan on March 23, 2010, the date the primary legislation was enacted. If your company sponsored a plan on that date, it is considered a “grandfathered” plan.

- Grandfathered plans are health plans in which an individual was enrolled on March 23, 2010.
- These plans can avoid many of the new health care reform provisions.
- The “grandfathered” protections still apply even if family members join current coverage or new employees join a current plan.
- Plans can lose grandfathered status if they make certain changes to benefits or costs.

HOW HEALTH CARE REFORM AFFECTS GRANDFATHERED PLANS

Grandfathered Plans

The law states that a grandfathered plan will retain its grandfathered status even if the covered individual renews the coverage after March 23, 2010, family members are allowed to enroll or new employees (and their families) are allowed to enroll.

The regulations essentially state that plans will lose their grandfathered status if they choose to significantly cut benefits or increase out-of-pocket spending for consumers. Losing grandfathered status means that a plan would have to comply with the health care reform requirements.

Specifically, the **prohibited** changes include the following:

- ***Cutting or Reducing Benefits***
- ***Raising Co-Insurance Charges***
- ***Raising Co-Payment Charges***
- ***Raising Deductibles***
- ***Reducing Employer Contributions***

- ***Adding or Tightening an Annual Limit***
- ***Change Insurance Companies***

Health Care Reform Rules that Do Not Apply to Grandfathered Plans

The grandfathering provision of the health care reform law specifically exempts grandfathered plans from certain requirements of the law. Grandfathered health plans are exempt from the following requirements:

- ***Coverage of Preventive Health Services.***
- ***Patient Protections.*** The health care reform law puts the following rules in place for patients:
 - Health plans that require designation of a participating primary care provider must permit each participant, beneficiary and enrollee to designate any available participating primary care provider.
 - Plans that provide emergency services may not impose preauthorization or increased cost-sharing for emergency services.
- ***Nondiscrimination Rules for Fully-Insured Plans.*** Plans may not discriminate in favor of highly compensated individuals.
- ***Quality of Care Reporting.*** Reporting requirements will be developed for group health plans and health insurance issuers offering group or individual health insurance coverage. The reports will relate to benefit and reimbursement structures.
- ***New Appeals Process.*** Effective for plan years beginning on or after September 23, 2010, group health plans and health insurance issuers offering group or individual
- ***Insurance Premium Restrictions.*** Premiums charged for health insurance coverage may not be discriminatory.
- ***Guaranteed Issue and Renewal of Coverage.***
- ***Nondiscrimination Based on Health Status.***
- ***Comprehensive Health Insurance Coverage.*** Effective for plan years beginning on or after January 1, 2014, health insurance issuers that offer health insurance coverage in the individual or small group market must provide the essential benefits package required of plans sold in the health insurance exchanges.

- **Limits on Cost-Sharing.** Effective for plan years beginning on or after January 1, 2014, plans may not impose cost-sharing or out-of-pocket costs in excess of certain limits.
- **Coverage for Clinical Trials.** Effective for plan years beginning on or after January 1, 2014, plans must permit certain enrollees to participate in certain clinical trials, must cover routine costs for clinical trial participants and may not discriminate against participants.

Major Health Care Reform Rules that Do Apply to Grandfathered Plans

The Health Care and Education Reconciliation Act of 2010 (the Reconciliation Bill) repealed some of the exemptions that were originally intended for grandfathered plans. Therefore, the provisions described below apply to both grandfathered *and* new health plans. Keep in mind that this is a description of major provisions that affect health plans, not an exhaustive list of how health care reform might affect your company.

- **Extension of Dependent Coverage.** Group health plans must provide coverage for adult dependent children up to age 26 if the child is not eligible to enroll in other employer-provided coverage (other than in a grandfathered plan).
- **Elimination of Lifetime and Annual Limits.**
- **Elimination of Pre-existing Condition Exclusions.** Effective for plan years beginning on or after September 23, 2010, pre-existing condition exclusions may not be applied to enrollees under age 19. Pre-existing condition exclusions are eliminated for all enrollees in 2014.
- **Limits on Rescissions.** Effective for plan years beginning on or after September 23, 2010, coverage may not be rescinded, except in the case of fraud or intentional misrepresentation of material fact. Policyholders must be notified prior to cancellation.
- **Limits on Waiting Periods.** Coverage may not require a waiting period of more than 90 days.
- **Reporting Medical Loss Ratio.** Effective for plan years beginning on or after September 23, 2010, health insurance issuers offering group or individual health insurance coverage must annually report the percentage of premiums spent on non-claim expenses. Beginning January 1, 2011, insurers must provide rebates if more than the applicable percentage is spent on non-claims costs.

