
THE GROUP BENEFIT NEWS BULLETIN

Guidance Issued Regarding “Grandfathered” Health Plans

One of the important aspects of The Patient Protection and Affordable Care Act was the idea that “if you like your Health Plan, you can keep it.” Thus, we were introduced to the concept of a “Grandfathered” Health Plan. If a group elects the “Grandfathered” status, their plan will be exempt from a number of provisions of the PPACA; however, some provisions will still apply.

Exemptions under a “Grandfathered” Plan:

- Nondiscrimination Based on a provider who is acting within his/her license.
- Comprehensive benefits relating to essential benefits and cost-sharing.
- Providing preventative health benefits without cost-sharing
- Insured plans prohibited from discriminating in favor of highly-compensated individuals based on income.
- Defining minimum types of Physicians that must be considered Primary Care and applying Network benefits to Emergency Services with Non-Network providers.

Applicable to all Plans, regardless of “Grandfathered” status:

- Prohibitions on excessive waiting periods (applies to grandfathered plans after 1/1/2014)
- No Lifetime or Annual Limits
- Extension of dependent coverage until age 26 (under Grandfathered Plans, the dependent may still be excluded if eligible for other group sponsored health plan, until 1/1/2014)

Recently, the IRS and Department of Health and Human Services issued the Interim Final Rules as guidance for the “Grandfathered” Status.

What is a Grandfathered Plan?

A group health plan that was in existence prior to March 23, 2010 could be considered “Grandfathered.” The loss of existing members or the addition of new members does not affect the status of the plan, provided there is always at least 1 member covered; however, that plan must adhere to reporting requirements detailed in the guidance:

- The Group Plan must maintain records documenting the Plan that include that the plan is believed to be a “Grandfathered” Plan.
- Those records must be available to the Participants, Beneficiaries and State and Federal Government Agencies.
- All Plan Materials must contain a Disclosure stating that the plan is believed to Grandfathered.
- The Disclosure must also contain contact information for Plan Administrators.

What constitutes a loss of Grandfathered Status?

The Interim Final Rules state specific instances that will cause an existing Health Plan to lose its Grandfathered Status:

- Entering into a new Policy, Certificate or Contract of Insurance with the Plan's Issuer
- Changing the Issuer of a Group Health Plan. NOTE: The change of a Third Party Administrator (TPA), by itself, does not cause a loss of Status.
- Changing the plan to eliminate all, or substantially all, of the benefits to diagnose or treat a particular condition.
- Increasing the Percentage of Cost-Sharing requirements. (e.g. Coinsurance)
- Increasing a Fixed Amount Cost-Sharing requirement, (e.g. Deductible, Out of Pocket Limit, etc), if the percentage of increase exceeds the "Maximum Percentage Increase" (CPI-U + 15 points)
- Decreasing the Employer or Employee Contribution rate for the cost of any tier of coverage by more than 5%, for any group of similarly situated individuals.
- Changing Annual Limits- Plans with an Annual Limit on March 23, 2010 may not decrease that limit. Plans without an Annual or Lifetime Limit may not impose one. Plans with a Lifetime Limit, but no Annual Limit may not adopt an overall Annual Limit that is lower than the Lifetime Limit in place on March 23, 2010.

Fully Insured plans under a Collective Bargain Agreement are subject to special timing rules and are not subject to the above guidelines until the CBA covering the Plan expires.

As always, TBPG will continue to monitor the updates and keep you informed of any pertinent information. If you have any questions, please contact your TBPG representative.



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770-916-1717

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