

General grandfathering announcement

Questions and Answers About Health Reform

September 2010

An important message about grandfathering

Under the new health care reform law called the Patient Protection and Affordable Care Act (PPACA), health plans in existence on March 23, 2010 may be eligible for “grandfathered” status. Generally, a grandfathered plan will be exempt from some but not all of the law’s insurance market reforms. However, changes in benefits or other plan terms may result in the loss of that status. If grandfathering is important to you, please consider the information below and review your options carefully. This is a summary only; ask your benefits advisor or an attorney who specializes in this area for detailed advice.

Implications of maintaining grandfathered status for group health plans

The reform law imposes a number of requirements on group health plans. Most of these will apply to group health plans **whether or not** they maintain grandfathered status, including:

- Elimination of lifetime limits on essential benefits
- Phase-out of annual limits on essential benefits by 2014
- Extending eligibility for dependents up to age 26*
- Elimination of pre-existing condition limitations for children under age 19

- Elimination of all pre-existing condition limitations in 2014
- Limitation of benefit waiting periods to no more than 90 days in 2014
- Insurer rebates if minimum loss ratio standards not met (insured plans only)
- Assessment of “Cadillac plan tax,” if applicable
- Assessment of employer mandate charge, if applicable

However, some reform requirements will not apply to grandfathered group health plans so long as that status is maintained. These include requirements to:

- Cover immunizations and certain preventive care without cost sharing
- Allow member choice of participating primary care physicians and pediatricians**
- Allow direct access (no referral) to OB/GYN services**
- Cover emergency services without pre-authorization or increased cost sharing if out of network**
- Provide internal and external review processes for certain denied claims**
- Eliminate discrimination in favor of highly compensated individuals
- Prohibit discrimination based on participation in a clinical trial
- Apply certain federal rating limitations in 2014 for small group plans (state rating rules will still apply)

- Provide essential benefits in the small group market in 2014
- Abide by cost sharing and deductible limits in 2014

Most health plans will not remain grandfathered

You should consider the benefits and burdens of grandfathering carefully. Grandfathered plans will be subject to severe ongoing restrictions on future benefit changes. Many of those restrictions are cumulative, meaning that grandfathered plans will be substantially locked into benefits in effect on March 23, 2010. The government has estimated that up to 80 percent of small employer plans could lose grandfathered status by 2013. Up to 64 percent of large group plans could lose grandfathered status by then as well.¹ The actual percentages could be even higher because many common plan changes will invalidate grandfathering.

*Under PPACA, until 2014 grandfathered group health plans are not required to offer coverage to dependents who are eligible for employer coverage.

**Most Aetna insured plans already provide these benefits. Current customers should review their existing plan documents for additional information.

¹26 CFR Parts 54 and 602 citing, Kaiser/RHET Employer Survey, 2008-2009.

Will your plan qualify for grandfathered status?

The following checklist may help you analyze if each benefits package within your group plan may remain qualified for grandfathered status.

Compared to your plan in effect on 3/23/2010, will there be:

- | | | |
|---|------------------------------|-----------------------------|
| Zero enrollees in the plan during any month? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| A decrease of more than 5 percentage points in your contribution rate for coverage or any tier of coverage? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| An elimination of a benefit to diagnose or treat a particular condition? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Any increase in a percentage of member cost-sharing requirement such as coinsurance? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Any increase in a fixed copayment by more than the greater of CPI ² plus 15 percentage points or \$5?* | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| An increase in deductibles or out-of-pocket limits by more than CPI plus 15 percentage points? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| An addition or decrease of an annual limit (except to replace an overall lifetime limit)? ³ | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| A change in insurers ⁴ (except for certain insured collectively bargained plans)? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| A business restructuring in order to avoid loss of grandfathered status? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Do you expect to make any of these changes by January 1, 2014? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you answered "Yes" to any of these questions, there is a good chance that your plan will not be grandfathered or that you will not benefit from seeking grandfathered status. This basic checklist does not list all of the actions that may defeat grandfathered status so you will want to review this issue carefully if you wish to maintain grandfathered status.

Among other requirements, grandfathered plans must contain a specific notice in plan documents to retain grandfathered status.

To learn more about grandfathering, access the following links posted on the Department of Labor's Employee Benefits Security Administration website:

Interim Final Regulation, available at www.dol.gov/federalregister/HtmlDisplay.aspx?DocId=23967&AgencyId=8&DocumentType=2

Table on Applicability of Provisions to Grandfathered Plans, available at www.dol.gov/ebsa/pdf/grandfatherregtable.pdf

Model disclosure language, available at www.dol.gov/ebsa/grandfatherregmodelnotice.doc

*Adjusted for inflation.

²Based on the overall medical care component of the Consumer Price Index for All Urban Consumers, unadjusted (CPI), published by the Department of Labor using the 1982 – 1. using the 1982 – 1984 base of 100.

³Permitted only if the plan did not already have an annual limit on March 23, 2010, and the new annual limit must not be lower than the prior lifetime limit and is subject to regulatory minimums.

⁴Self-funded plans may change insurers acting as claims administrators without defeating grandfathered status.

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This summary is provided for informational purposes only. This summary should not be construed as, or relied upon, as legal or any other advice. Employers should consult with their own legal counsel for a comprehensive explanation of the rules and the proper application of these rules to their particular situation.

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