



REFORM TOPIC SUMMARY: *Grandfathered Health Plan Provisions*

June 25, 2010

HHS has published the guidelines for health plan sponsors to maintain the “grandfathered” status of their health plans. As you will recall, grandfathering a health plan allows employers to delay implementation of some of the mandated reform changes. The key items that could be delayed include:

- Coverage requiring emergency service at in-network cost sharing level with no prior authorization
- A narrow exemption to the requirement that dependent coverage must be provided for adult children up to the age of 26 - allows grandfathered plans to enroll only those who do *not* have access to other employer-sponsored coverage (other than through their parents)
- No cost sharing on preventative services and immunizations
- The requirement for Plans to maintain an external appeals process and continue benefits while the appeal is pending
- An expansion of the primary care designation for in-network providers
- Application of nondiscrimination rules to fully insured plans that prohibit discrimination in favor of highly compensated employees
- Community rating
- Limits on plan deductibles and co-pays
- Clinical trial coverage
- Individual plans are exempt from the children to age 19 pre-ex provision
- Coverage requiring emergency service at in-network cost sharing level with no prior authorization

Compared to the company’s policy in effect on March 23, 2010, grandfathered plans are not allowed to do the following:

- Significantly cut or reduce benefits, i.e. a plan decides to no longer cover a specific disease category
- Raise co-insurance charges; an increase from 20% to 30% would negate grandfathered status.
- Significantly raise co-payment charges by more than the greater of \$5 (adjusted annually for medical inflation) or a percentage equal to medical inflation plus 15%
- Significantly raise deductibles; compared with the deductible in effect on March 23, 2010, you could only increase the deductible by medical inflation plus 15%. If we



assume medical inflation at 4-5%, a plan could raise their deductible by 19-20% between 2010 and 2011.

Example: A \$1,000 deductible could go to \$1,190-1,200. Most importantly, the plan would be limited to medical inflation increases thereafter since it used the 15% in the first year.

- Significantly lower employer contributions to the employee's premium; grandfathered plans cannot decrease the percentage of premium the employer pays by more than 5% points.
- Add or tighten an annual limit on what the insurer pays; plans could not tighten any annual dollar limit in place March 23, 2010.
- Change insurance companies, unless self-insured
- Grandfathering rules will apply separately to each benefit offering within a plan so that the loss of grandfathered status for one benefit option does not imply a loss for all plan options
- Individuals will be allowed to enroll in grandfathered plans after March 23, 2010 (newly hired employees, enrollees and their families) and retain the plan's grandfathered status
 - A employer cannot add new enrollees into a grandfathered plan due to merger , acquisition or restructuring if the principal purpose was to maintain grandfathering status
 - An employer cannot terminate one grandfathered plan and enroll employees in another grandfathered plan and retain grandfathered status in certain circumstances (general for cost reduction purposes)

Summary

These new guidelines essentially place parameters on plan changes that increase employees' out-of-pocket costs. Employers will essentially have to decide if the value of losing grandfathered status through benefit changes or carrier changes outweighs the potential cost of the new healthcare provisions they must adopt. Clearly, it is unlikely that an employer would accept a 4 or 5% incremental increase in premium cost to avoid the potential loss of grandfathering.

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