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# Health Reform and the Private Insurance Market

Collectively referred to as healthcare reform, the Patient Protection and Affordable Care Act (ACA) and the Health Care and Education Reconciliation Act (Reconciliation Act), establish significant changes to group health plans and health insurance issuers in the group and individual insurance industry, with the objective of ensuring access to affordable essential coverage and improving the quality of coverage and care.[1] At the same time, the legislation aims to preserve the ability to maintain current coverage for those satisfied with their health plans, by granting certain plans "*grandfathered*" status. A grandfathered health plan refers to a group health plan or individual health insurance coverage in existence as of March 23, 2010, which is subject only to certain provisions of the healthcare reform legislation.[2] However, to ensure access to coverage and certain protections Congress deemed particularly important, a significant portion of the healthcare reform legislation establishes new regulations for the insurance industry which affect both grandfathered and non-grandfathered insurance plans.[3]

All health insurance plans, regardless of grandfathered status, are subject to the following provisions. Effective September 23, 2010, plans are required to provide dependent coverage for children up to age 26 (including parents employer plans). Beginning on January 1, 2011, health plans must report the proportion of premium dollars spent on clinical services and provide rebates to consumers for any cost less than 85 percent for large group plans and 80 percent for individual and small group plans. By 2014, an employer may not impose more than a 90 day waiting period before providing an employee health coverage.[4]

In an attempt to balance its insurance industry objectives while maintaining existing coverage for certain individuals, the health reform legislation exempts grandfathered health plans from certain requirements of the law with which new plans must comply. For example, the legislation does not require grandfathered plans to cover a minimum package of essential health benefits and does not limit grandfathered plans on the level of cost-sharing for "*essential health benefits.*" Additionally, grandfathered plans are not prohibited from requiring cost-sharing to provide coverage for recommended preventive services. While the health reform legislation prohibits new plans from considering health status in setting premium rates, grandfathered plans will be permitted to consider health status in underwriting, with some limitations on rate variation due to age. Furthermore, new plans will have a cap on deductibles for small-group plans, set at $2,000 for an individual and $4,000 for a family starting in 2014, which will not apply to grandfathered plans.[5]

While the ACA is silent on the extent to which group health plans or individual health plans are permitted to change without losing their grandfathered status, the government has recently released regulatory guidance to help address the issue. A plan may not eliminate benefits or services essential for treatment of a particular condition, and may not increase coinsurance or other levels of cost sharing. Deductible or out-of-pocket limits will be allowed a cumulative increase, limited to medical price inflation plus 15 percent. Grandfathered plans have also been approved to increase their fixed-dollar copayments, but are limited to greater of $5 (adjusted annually for inflation) or medical inflation rate plus 15 percent; employer contribution to premiums cannot decrease by more than five percent. Additionally, annual limits on benefits may not be changed or reduced.[6] A recent amendment to the interim final rule regarding grandfathered health plans states that a group health plan does not lose its grandfathered status merely because the plan (or its sponsor) enters into a new policy, certificate, or contract of insurance after March 23, 2010.[7]

Health reform will fundamentally change many aspects of the insurance industry, and while health reform exempts grandfathered plans from some components of the legislation, all plans will need to comply with certain provisions that impact access, quality, and cost of health insurance coverage. The retention of grandfathered status will likely have certain tradeoffs for individuals, employers, and providers, and as the transformation of the insurance industry unfolds, these stakeholders will need to consider many factors in determining whether the rules applicable to grandfathered health plans are more or less favorable than the rules applicable to new health plans.

1 "Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act; Interim Final Rule and Proposed Rule," Federal Register, Vol. 75, No. 116, June 17, 2010, p. 34539.

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[2] "Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act; Interim Final Rule and Proposed Rule," Federal Register, Vol. 75, No. 116, June 17, 2010, p. 34539.

[3] For more information on reforms insurance provisions, see HCC Topics Vol. 3 Issue 12: Health Reform's Effect on Individuals, and HCC Topics Vol. 3 Issue 11: Insurance Exchanges.

4 "Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act; Interim Final Rule and Proposed Rule," Federal Register, Vol. 75, No. 116, June 17, 2010, p. 34542p; "Requirements Relating to Health Insurance Coverage" Title 27 Public Health Service Act (PPACA) Section 2708 (May 24, 2010).

[5] "Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act; Interim Final Rule and Proposed Rule," Federal Register, Vol. 75, No. 116, June 17, 2010, p. 34539; "Health Policy Brief" Health Affairs, October 29, 2010, www.healthaffairs.org (Accessed November 23, 2010).

[6] "Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act; Interim Final Rule and Proposed Rule," Federal Register, Vol. 75, No. 116, June 17, 2010, p. 34539.

[7] "Overview of Amendment to the Interim Final Regulations" Federal Register, Vol. 75 No. 221, November 17, 2010, p. 70116.

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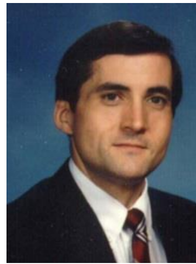

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