

# bailey benefit *news*

This update is sent periodically to keep you informed of employee benefit plan issues that may impact your organization.



## June 14, 2010

Departments of Health and Human Services, Labor, & Treasury jointly released regulations on Friday, June 11 that clarify a reference to the “grandfathered” status of health plans in the Health Care Reform legislation. The law categorizes health plans as either “grandfathered” or “non-grandfathered.” A grandfathered plan is one that was in existence as of March 23, 2010, and there are different coverage mandates that apply to non-grandfathered plans that do not apply to grandfathered plans.

The regulations address what could cause a plan to lose its grandfathered status. To summarize, plans can make typical cost sharing changes and still maintain their grandfathered status, but substantial changes would cause plans to lose their grandfathered status. Specifically, the following plan changes for renewals on or after October 1, 2010 could result in the loss of grandfathered status, which means additional coverage mandates.

- Eliminates all or substantially all benefits to diagnose or treat a particular condition.
- Increases a percentage cost-sharing requirement (such as coinsurance) above the level at which it was on March 23, 2010;
- Increases fixed-amount cost-sharing requirements other than copayments, such as a \$500 deductible or a \$2,500 out-of-pocket limit, by a total percentage measured from March 23, 2010 that is more than the sum of medical inflation and 15 percentage points.
- Increases copayments by an amount that exceeds the greater of: a total percentage measured from March 23, 2010 that is more than the sum of medical inflation plus 15 percentage points, or \$5.
- Decreases the employer contribution rate by more than five percentage points below the contribution rate on March 23, 2010.
- A change in carrier. (this would only apply to fully insured plans)

To be able to maintain “grandfathered” health plan status, any documents describing the benefits that are provided to the participants and beneficiaries, must state that it is the belief of the employer that the health plan is Grandfathered. Model language is provided in the interim regulations.

These regulations are in draft format therefore they are not final, and it is still under consideration whether the following changes should result in cessation of grandfathered health plan status (1) changes to plan structure (such as switching from a health reimbursement arrangement to major medical coverage or from an insured product to a self-insured product); (2) changes in a network plan’s provider network; (3) changes to a prescription drug formulary; or (4) any other substantial change to the overall benefit design.

**For all plans (Grandfathered and Non-Grandfathered)**, the following are effective the first plan year starting October 1, 2010:

- Adult children will be eligible for coverage up to age 26, *if not eligible for other coverage*.
- Pre-existing conditions exclusion prohibited for covered dependents under age 19.
- No lifetime limits and no *restrictive* annual limits on “Essential Benefits”. (Essential benefits include Ambulatory, Emergency, Mental Health & Substance Abuse, Rehabilitative, Laboratory, Wellness, Pediatric Care, Hospitalization, Maternity & Newborn Care, Prescription Drug, Disease Management.)

**Non-Grandfathered Plans**, and new plans established after 3/24/10 must also abide by the following effective the first plan year starting October 1, 2010:

- Adult children will be eligible for coverage up to age 26, *even if eligible* for other coverage.
- Provide first dollar coverage for preventive care.
- No annual limits on “Essential Benefits”.
- All plans are subject to Code 105(h) non-discrimination rules for eligibility and benefits (previously, fully insured plans were not subject to these rules).

We are working with each of our clients to evaluate the impact of Health Care Reform on their benefit plans, and to ensure that any renewal decisions are made with thoughtful consideration to the new legislation, both now and as we anticipate the future of Health Care. Please contact your Bailey & Company team with questions.