

# How Does a Health Care Plan Maintain “Grandfathered” Status?



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While the health care reform legislation dramatically changes health care insurance in the United States, many of the changes do not affect plans that maintain their “grandfathered” status. Grandfathered

health plans are subject to only specified provisions of the Affordable Care Act (ACA).

Coverage under a grandfathered plan satisfies an individual's requirement to have minimum essential coverage and as long as the plan maintains its grandfathered status. This is also an important classification as it may also avoid some of the more onerous provisions of the new federal nondiscrimination rules of IRC Sec 105(h)(2). A brief summary of those rules can be found here [ACA provision on discriminatory health and dental insurance plans](#).

A health plan or health insurance coverage is grandfathered if (1) the plan was in existence on March 23, 2010 (with at least one individual enrolled in coverage on that date), (2) has continuously provided coverage to any individual since that date, and (3) has not done anything that would cause it to lose its grandfathered status. The determination of grandfathered status is made for each benefit package (i.e., plan option) available under a group health plan or health insurance coverage.

Grandfathered plans are limited in the benefit changes and the cost modifications they can make while maintaining their grandfathered status. Changes such as eliminating or modifying benefits or coverage for even one medical condition, increasing deductibles or cost-sharing requirements above certain thresholds, decreasing the company's contributions to the plan, or changing annual or lifetime limits may cause the plan to lose its grandfathered status and be subject to the new ACA requirements and nondiscrimination testing.

On the other hand, the following examples are allowable changes that should not cause a plan to lose its grandfathered status: changes required to comply with federal or state legal requirements, changes to voluntarily comply with the ACA provisions that apply to non-grandfathered plans, changes to the third-party

administrator, enrolling new employees and their families or enrolling current employees and their families who were not previously enrolled in the plan, or changing the total premium amount for coverage under the plan. It is important to note that grandfathered health plans are still subject to some specific provisions of the new law.

The following are key provisions of the law that apply to grandfathered health plans:

## **1. No Annual or Lifetime Limits.**

Effective for plan years beginning on or after September 23, 2010, no lifetime limits on the dollar value of certain benefits (i.e., essential health benefits) can be established. No annual limits on the dollar value of essential health benefits can be established beginning after 2013. However, for plan years beginning before January 1, 2014, a restricted annual dollar limit can be established, as long as it meets certain guidelines.

## **2. Prohibition of Rescission of Coverage.**

Effective for plan years beginning on or after September 23, 2010, an individual's coverage cannot be rescinded once the individual is enrolled in the plan unless he or she commits a fraudulent act or intentionally misrepresents a material fact, as prohibited by the terms of the plan or coverage.

## **3. Extension of Dependent Coverage.**

Effective for plan years beginning on or after September 23, 2010, a grandfathered health care plan that offers dependent coverage must continue to offer the coverage until the child reaches age 26 unless that individual is eligible to enroll in an employer-sponsored health plan that is not a group health plan of either parent. The adult child, if otherwise qualifying, must continue to be offered coverage in the parent's health plan even if he or she does not qualify as the parent's dependent for income tax purposes. For plans years beginning on or after January 1, 2014, the coverage must be offered to the adult child regardless of whether he or she is eligible to enroll in another employer-sponsored plan.

## **4. Prohibition of Pre-existing Condition Exclusions.**

Effective for plan years beginning on or after

# Discrimination Testing Now Applies to Health and Dental Plans (another result of ACA)



September 23, 2010, no exclusions for a pre-existing condition can be imposed on any participant or beneficiary under age 19. The ban on pre-existing conditions applies to all individuals effective for plan years beginning on or after January 1, 2014.

## 5. No Excessive Waiting Periods.

Effective for plan years that begin on or after January 1, 2014, no waiting period (i.e., the period before an individual is eligible to be covered for benefits under a plan) can exceed 90 days.

In addition, grandfathered plans are subject to new reporting requirements regarding health insurance coverage. Beginning in 2012, all health insurance plans, including grandfathered plans, must provide applicants and enrollees a summary of benefits and coverage that must be written according to standards set by the Department of Health and Human Services (HHS). Additionally, beginning with the 2012 Forms W-2, some employers must report the aggregate cost of employer-sponsored health coverage on each employee's Form W-2.

Grandfathered plans must maintain records, for as long as the plan or coverage takes the position that it is a grandfathered health plan, that document the terms of the plan or coverage in connection with the coverage in effect on March 23, 2010. The plan should keep any documents necessary to verify, explain, or clarify its status as a grandfathered health plan. These records must be made available for examination upon request.

Before changing insurance issuers or making any changes in benefits offered, employers should evaluate the benefits of maintaining a plan's grandfathered status. Should you have any questions related to this topic, please contact your Keiter professional or our office. 804.747.0000 | [information@keitercpa.com](mailto:information@keitercpa.com)

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