

LEGISLATIVE BRIEF:

NEWS RELATED TO THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

GRANDFATHERED PLANS: WHAT CHANGES CAN YOU MAKE?

For more information about the additional regulations affecting grandfathered plans and those that are not grandfathered, please see our [legislative brief](#).

What Plans Can Do and Maintain Grandfather Status:

- » Make voluntary changes to increase benefits.
- » Conform to required legal changes.
- » Adopt voluntarily consumer protections.
- » Change third-party administrators.
- » Lose grandfathered status in one benefit package but keep it in another.
- » Implement amendments to a plan that were adopted prior to March 23, 2010 but not effective until after.
- » Enroll new family members of individuals already enrolled, enroll new employees (whether newly hired or newly enrolled) and their families.
- » Increase fixed-amount cost-sharing requirements such as deductibles and out-of-pocket limits by no more than medical inflation (CPI-U Medical) plus fifteen percentage points.
- » Increase copayments by no more than:
 - › Medical inflation plus 15 percentage points or
 - › \$5 increased by medical inflation.
- » Decrease its portion of the premium or other fixed cost of coverage relative to the portion of such cost paid by employees.
- » Enter a new contract of insurance as long as the change becomes effective on or after November 15, 2010. Contracts that took effect before November 15, 2010, but after March 23, 2010, will cause the plan to lose grandfathered status.

What Plans Must Do to Maintain Grandfathered Status:

- » Include a statement, in any plan materials provided to participants or beneficiaries describing the benefits provided under the plan or health insurance coverage, that the plan or health insurance coverage believes it is a grandfathered health plan within the meaning of section 1251 of the Affordable Care Act and provide contact information for questions and complaints (model language will be provided).
- » Maintain records documenting the terms of the plan or health-insurance coverage that were in effect on March 23, 2010, and any other documents necessary to verify, explain, or clarify its status as a grandfathered health plan. The plan or issuer must make such records available for examination.

What Plans Cannot Do and Maintain Grandfathered Status:

- » Increase a percentage cost-sharing requirement (such as coinsurance) above the level at which it was on March 23, 2010.
- » Decrease its contribution rate toward the cost of any tier of coverage by more than 5 percentage points below the contribution rate for the coverage on March 23, 2010. For this purpose, contribution rate is defined as the amount of contributions made by an employer compared to the total cost of coverage, expressed as a percentage. In the case of a self-insured plan, contributions by an employer are calculated by subtracting the employee contributions towards the total cost of coverage from the total cost of coverage.
- » Eliminate all or substantially all benefits to diagnose or treat a particular condition, or eliminate an essential component for treating a particular condition.
- » Increase a fixed-amount cost-sharing requirement 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.
- » Increase fixed-amount 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 increased by medical inflation.

- » Contracts that took effect before November
- » Move enrollees from one plan to another that has fewer benefits or higher cost sharing.

If you have questions about your plan's compliance with these requirements or how to implement them, please contact your attorney.

Resources:

- » **Full text of the regulations**
(several examples are included beginning on page 77 and continuing through the end of the document)
- » **Whitehouse Fact Sheet**
- » **Whitehouse Q&A**
(including a section on questions from employers)

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