



Compliance Alert

May 28, 2010

Group Benefit Services is pleased to announce the first of our Health Care Reform Compliance Alert series. Every other week or so you will receive a Compliance Alert that will concentrate on a specific Health Care Reform topic that could affect your group health plan. As information changes or more details are clarified by the government entities we will continue to keep you informed. This first Compliance Alert includes two Health Care Reform topics. We hope you find this information informative and helpful through this challenging time in our industry.

- ***Grandfathered Plans***
 - ***Early Retiree Health Insurance Program***
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Health Care Reform – What is a Grandfathered Plan?

The Patient Protection and Affordable Care Act (PPACA) and The Health Care and Education Reconciliation Act of 2010 (together known as the “Reform Legislation”) will affect the design and administration of employer-sponsored group health plans.

This Compliance Alert is to define a Grandfathered Plan and will explain how the Reform Legislation impacts employer-sponsored group health plans that were in effect on March 23, 2010.

What is a Grandfathered Plan?

A ‘grandfathered plan’ is a plan where an individual was enrolled on March 23, 2010. A grandfathered plan can be a single employer plan or a multi-employer plan. The plan can also be an insured plan or a self-insured arrangement.

In the case of collectively bargained plans, a group health plan is a grandfathered health plan until the last of the collective bargaining agreements related to the coverage under the group health plan terminates.

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A few of the known facts regarding keeping the status of a grandfathered plan:

1. A grandfathered plan may enroll new employees and their families in the plan without losing the plan's grandfathered status. The grandfathered status also continues to apply to the coverage of an individual covered by the plan on the date of enactment regardless of whether the individual renews coverage or adds family members after the date of enactment. Some guidance is still needed on this topic.
2. Some amendments will be allowed to be made to the plan without losing the grandfathered status. Until further guidance is issued, plan sponsors should take care to consider amendments that would substantially alter the nature of a benefit or the coverage of the members.

Grandfathered plans must comply with the following provisions. More information will be coming in a later Compliance Alert.

1. Requirement that plans and insurers issue standardized summaries of benefits and coverage explanations.
2. Prohibition on lifetime limits.
3. Extension of dependent coverage to adult children.
4. Restriction on annual limits.
5. Prohibition on pre-existing condition exclusions.
6. Prohibition on excessive waiting periods.

Grandfathered plans are not required to comply with the following provisions.

1. Requirements regarding preventive health services.
2. Prohibition against discrimination in favor of highly compensated individuals.
3. Required reporting on quality features.
4. Requirement regarding internal appeals.
5. Prohibitions on restrictions regarding health care providers and other patient protections.
6. Prohibition against discrimination based on health status.
7. Prohibition against discrimination against health care providers.
8. Comprehensive health insurance requirement.
9. Coverage requirement for clinical trials.

As more clarification is provided regarding "grandfathered plans" and the requirements we will provide you with the detail.

Attached to this Compliance Alert is a Legal Alert from an Employee Benefits law firm detailing more information on Grandfathered Plans and the requirements.

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Health Care Reform – Early Retiree Health Insurance Program

The Department of Health and Human Services (HHS) has issued an interim final rule for the Early Retiree Health Insurance Program that was enacted as part of the Patient Protection and Affordable Care Act (PPACA).

This Program will provide an opportunity to help offset the costs of health claims for employers that provide health benefits for retirees age 55 through 64 and not eligible for coverage under Medicare. The Act has labeled these individuals 'early retirees'. The Program could reimburse plan sponsors for a portion of the cost of benefits provided to early retirees and their spouses and dependents.

The Program is to be established by HHS within 90 days of the enactment which is June 21, 2010.

The Program is to run through January 1, 2014 or earlier if the \$5 billion set aside for the program is exhausted.

Although the Program provides an opportunity for the plan sponsor to reduce certain medical costs, a considerable amount of administrative effort will be involved. Plan Sponsors must apply for the Program and be approved (certified) by HHS in order to participate.

The Program has limited funds as explained above therefore the applications are reviewed on a first come, first served basis. *HHS has stated the application will be available by the end of June.*

General Overview of the Program

To be eligible to receive reimbursements under the Program:

- The plan sponsor must apply to the HHS;
- HHS must approve the application and certify that the plan sponsor and the plan sponsor's employment-based plans meet the requirements for participation;
- The plan sponsor must include programs and procedures that have generated or have the potential to generate cost savings for the plan participants with claims for chronic and high cost conditions.
- The certified plan sponsor must submit claims, with supporting documentation.

If the requirements are met, the plan sponsor is eligible to receive reimbursements equal to 80% of the costs of eligible health benefit claims incurred during the current plan year.

This Alert is an overview to provide you with information so you can determine whether or not you may be eligible to receive reimbursement under this new Program.

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Attached to this Compliance Alert is a detailed description of the Program as described by a law firm specializing in Employee Benefits.

If you have any questions regarding this information, please contact your Group Benefit Services Account Manager at 1.800.638.6085.

This communication is not intended to be legal advice and should not be construed as legal advice. If you have any legal questions or concerns about your plan, GBS recommends seeking counsel from an ERISA attorney.

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