

# United for Health Reform

## “Grandfathered” Health Plans and the New Guidance

The recent guidance set forth in the “grandfathered plan” interim final regulations brought an even greater need for small business clients to rely on their brokers for employee benefit advice and consultative services. This document is intended to simplify the “grandfathered” rules under the reform legislation.

### Definition of a “grandfathered” health plan:

Grandfather health plans are individual and group plans that were in effect on the effective date of the legislation (March 23, 2010). Grandfathered plans are exempt from some of the reform provisions that go into effect but other provisions are required for both grandfathered and non-grandfathered plans (see below).

### Provisions Grandfathered plans are exempt from:

- **Non-Discrimination** – Fully insured group health plans cannot discriminate in favor of highly compensated individuals with respect to eligibility or benefits
- **Dependent Coverage for Young Adults** – Grandfathered and non-grandfathered plans are required to extend dependent coverage to young adults until age 26. However, grandfathered plans are only required to extend coverage if the adult child is not eligible to enroll in another employer-sponsored plan.
- **Primary Care Provider** – Plans must permit participants to designate a child’s pediatrician as the primary care provider.
- **Pre-Authorization**- Plans cannot require pre-auth for OB/GYN care or emergency care provided by out-of-network providers.
- **Emergency Coverage** – Emergency care must be covered both in and out-of-network.
- **Preventive Health Services** – Plans must offer preventative health services without certain cost-sharing requirements.
- **Appeals** – There must be an external claim appeal process in place, and employees must receive continued coverage pending the outcome of the appeals process.

### Provision Grandfathered plans must still adhere to:

- No lifetime limits on essential health benefits
- No rescission of coverage when an individual made an unintentional mistake on their application (coverage may be rescinded in the instance of fraud or material misrepresentation)
- No preexisting conditions for children under 19
- No restricted annual limits exceeding a scheduled amount (e.g., for calendar year plans the limit cannot be lower than \$750,000 per year).
- Extension of parent’s coverage to young adults under 26 years old, except if they are eligible to enroll in their own employer-sponsored plan



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## Losing Grandfathered Status

A group will lose their grandfathered plan status if they make material changes to their health plan, including:

- **Significantly reduce benefits** — e.g. if a plan decides to eliminate coverage for diabetes, cystic fibrosis, or HIV/Aids
- **Change insurance carriers** (fully insured only)
- **Raise co-insurance amounts**
- **Significantly raise co-payment charges** — cannot change copay more than \$5 compared to the rate of the co-pay as of 3/23/2010 or change by a percentage equal to medical inflation plus 15 percentage points (whichever is greater)
- **Significantly raise deductibles or out of pocket max** — cannot change deductibles or out of pocket max amounts by a percentage equal to medical inflation plus 15 percentage points as compared to the amounts as of 3/23/2010
- **Significantly lower Employer Contributions** — employers cannot lower their contribution structure in place on 3/23/2010 more than 5%.

Many of the provisions grandfathered plans are exempt from are already satisfied by our small business product offering, including primary care provider selection, prior authorization, emergency room, and appeals. We will continue to create new products that will satisfy all of the requirements of the PPACA to accommodate plans that lose their grandfathered status.