

RSC Info Alert: HHS “Grandfathered” Regulations Will Guarantee that 51% of Employees Cannot Keep Their Current Coverage.

Despite the claim that current health care plans are “grandfathered” in under PPACA, if an individual’s current insurance company makes changes to its plan (such as including more people other than dependents or employees), it would trigger the mandate to have a government approved plan.

Under PPACA “grandfathered” plans would still be required to comply with certain reforms, and individuals who choose to enroll in these plans would not be able to use tax credits, essentially allowing these plans to wither on the vine. Six months after passage, the reconciliation bill would require “grandfathered” individual and small group plans to do the following:

- Prohibit practices such as the rescission of insurance, excessive waiting periods, and lifetime limits.
- Requires “young adults” be allowed to stay on their parents’ insurance plan until age 26.

The U.S. Departments of HHS, Labor, and Treasury just issued a [new regulation](#) on “grandfathered” health plans under PPACA. Similar to the draft that was leaked on Friday, the final regulation shows the following:

- “Any policies sold in the group and individual health insurance markets to new entities or individuals after March 23, 2010 will not be grandfathered health plans even if the health insurance products sold to those subscribers were offered in the group or individual market before March 23, 2010.” (Page 14)
- Mid-range estimates show that 51% of all employees in 2013 will be in plans without “grandfathered” status as employers will be forced to change their plans. (Page 54)
 - *This means that nearly 87 million Americans will not be able to keep their coverage.*
- High-end estimates show that 69% of all employees in 2013 will be in plans without “grandfathered” status. (Page 54)
 - *This means that nearly 117 million Americans will not be able to keep their coverage.*
- High-end estimates show that 80% of employees in small employer plans in 2013 will be in plans without “grandfathered” status. (Page 54)
- Unions are exempt. Collectively bargained plans “can change issuers during the period of the collective bargaining agreement without a loss of grandfather status” at least until the last agreement in effect as of March 23, 2010 terminates. (Page 81)

Group health plans or health insurance coverage no longer will be considered “grandfathered” if a plan sponsor or insurer:

- “Eliminates all or substantially all benefits to diagnose or treat a particular condition.”
 - *In other words if a plan cuts benefits in order to offset rising costs they are no longer grandfathered.* (Page 35)
- “Increases a percentage cost-sharing requirement (such as coinsurance).” (Page 36)

- “Increases fixed-amount cost-sharing requirements other than copayments...by a total percentage measured from March 23, 2010 that is more than the sum of medical inflation and 15 percentage points.” (Page 36)
 - For co-payments plans cease to be grandfathered “if there is an increase since March 23, 2010 in the copayment that exceeds the greater of (A) the maximum percentage increase or (B) five dollars increased by medical inflation.” (Page 21)
- “For a group health plan or group health insurance coverage, an employer or employee organization decreases its contribution rate by more than five percentage points below the contribution rate on March 23, 2010.” (Page 36)
- A group health plan, or group or individual health insurance coverage, with respect to annual limits as of March 23, 2010:
 - If previously did not impose an overall annual or lifetime limit - imposes an overall annual limit on the dollar value of benefits.
 - If previously imposed a lifetime limit but no overall annual limit - adopts an overall annual limit at a dollar value that is lower than the dollar value of the lifetime limit that was previously imposed.
 - If previously imposed an overall annual limit on the dollar value of all benefits - decreases the dollar value of the annual limit (regardless of whether the plan or health insurance coverage also imposes an overall lifetime limit on the dollar value of all benefits). (page 36)

Additional Information:

Click [here](#) for Administration’s fact sheet on the new regulation and [here](#) for their questions and answers.

The new regulation is available on the Federal Register’s website at the following link:
http://www.federalregister.gov/OFRUpload/OFRData/2010-14488_PI.pdf

More detailed analysis from the RSC will be forthcoming.