



Issue: Extension of dependent health coverage up to the age of 26.

Citation:

Title I, Part A, Subpart II, Sec. 2714

Statutory Requirement:

Extension of health coverage for adult dependents under their parent's health plan up to the age of 26.

After January 1, 2014 dependents eligible for coverage under an employer plan are not eligible for coverage under this provision with grandfathered health plans that are group health plans.

Effective Date:

Group Coverage—Effective the first plan-year on or after September 23, 2010.

Individual Market—See *policy year definition on page two as defined in rule.*

Grandfathered Plans—Defined as an existing group health plan or health insurance coverage (including coverage from the individual health insurance market) in which a person was enrolled on the date of enactment must comply for plan years beginning six months on or after date of enactment (September 23, 2010). Prior to 2014, a child may enroll for dependent coverage on a grandfathered plan only if the individual is not eligible for employment-based health benefits.

State Regulated Plans—State laws that impose on state regulated health issuers stricter requirements than those imposed by federal law will not be superseded. States have a choice of continuing to impose their current policies upon state regulated health plans, or to conform their laws to the provisions of the enacted health reform measures.

Premium Rate & Payment:

The law is silent concerning the mechanism for payment of premiums for coverage of an adult dependent. The health plan may exclude coverage for pre-existing conditions for a period of time depending on prevailing state and existing federal law if the dependent is 19 years of age or older until the prohibition on pre-existing condition exclusions take effect in 2014.

Interim Final Rules

The Departments of Health and Human Services (HHS), Labor, and Treasury issued new regulations May 10, 2010 and will become effective 60 days after publication, July 10, 2010.

Rule Effective Date—July 10, 2010, comments will be accepted until August 10, 2010.

HHS — 45 CFR Subtitle A, Parts 144, 146 and 147

Jurisdiction—Amends laws in Part 146, 147, and 148 of the Public Health Service Act (PHS Act) pertaining to group health plans, group health insurance issuers, and health insurance issuers in the group and individual markets.

Revises the definition of *policy year* in the individual market to mean the 12-month period that is designated as the policy year in the policy documents of the individual health insurance coverage. If no policy year has been designated, then the policy year is the deductible or limit year used under the coverage. If deductibles or other limits are not imposed on a yearly basis, the policy year is the calendar year.

DOL—Employee Benefits Security Administration — 29 CFR Chapter 2590

Jurisdiction—Amends Part 2590 Rules and Regulations for Health Insurance Portability and Renewability for Group Health Plans.

DOT—Internal Revenue Service—26 CFR Parts 54 and 602

Regulatory Requirements:

- **Applicability**—group health plans; group health insurance issuers.
- Requires group and individual health insurance coverage that provides coverage to dependent children to extend coverage for children until they reach their 26 birthday.
- Prohibits a plan from defining dependent in any other way other than a relationship between a child and the participant.
- Prohibits a plan from denying or restricting coverage for a child who has not yet reached their 26th birthday based on the following:
 1. Financial dependency,
 2. Residency with participant,
 3. Student status,
 4. Employment,
 5. Marital status, or
 6. Combination of these factors.
- Prohibits coverage provided to dependents to vary based on age except for children who are age 26 or older.
- Coverage must be offered to the dependent by the plan no later than the first day of the first plan year beginning on or after September 23, 2010.
- **Provides transitional relief for children whose coverage ended** or was denied coverage under a group health plan or health insurance coverage before reaching their 26th birthday. These children are eligible to enroll in the plan coverage that continues for at least 30 days regardless of whether the plan coverage offers an open enrollment period or when it may occur. The enrollment opportunity must be provided during the initial plan year beginning on or after September 23, 2010 and thereafter and coverage begins on the first day of that period. They must be offered full benefits and pay no more for coverage than similarly situated individuals who did not lose coverage by reason of dependent cessation.
- **Special rule for grandfathered group health plans**—Plan years beginning before January 1, 2014, grandfathered plans as defined by the act may exclude an adult child who is not 26 years old from coverage if they enroll in an eligible employer-sponsored health plan.
- A grandfathered health plan is an existing group health plan or health insurance coverage (including coverage from the individual health insurance market) in which a person was enrolled on the date of enactment. Therefore, as long as a person was enrolled in a health insurance plan on March 23, 2010, that plan has been grandfathered.
- Specifies that children who are eligible for coverage and currently covered under a COBRA continuation provision must be given the opportunity to enroll as a dependent of an active employee. If a child in this case loses eligibility for coverage due to a qualifying event, such as aging out of coverage, they will have an opportunity to elect COBRA continuation coverage for another 36 months.
- Provides that if a plan has more than one benefit package option they must provide an opportunity to enroll that child in any benefit package option for which they are eligible.
- Permits an employer to deduct from an employee's income the value of employer provided health coverage for an employee's child for an entire taxable year that the child turns 26 if the coverage continues until the end of that taxable year.
- **Effective date of coverage** — the first day of the first plan year beginning on or after September 23, 2010.

State Issues

- States may continue to apply state law requirements except to the extent that the requirements prevent the application of the Affordable Care Act requirements.
- State insurance laws that are more stringent than the federal requirement are unlikely to “prevent the application of” the Affordable Care Act, and be preempted.
- State and local governments as sponsors will be required to provide notice of an enrollment opportunity to individuals whose coverage ended, or who was denied coverage under their plans before the attainment of age 26. HHS estimates that 126,000 state and local governmental plans would have to send approximately 19,627,000 notices to eligible employees, and 490 insurers in the individual market would have to send approximately 5,444,000 notices to individuals with policies covering dependents. The associated equivalent cost is estimated at \$6,791,000 to prepare and distribute 25,071,000 notices; distribution of notices will be approximately \$777,000 excluding postage cost.

Additional Information & Resources:

Effective March 30, 2010, employers may permit employees to begin making pre-tax contributions under a cafeteria plan – a plan that allows employees to choose from a menu of tax-free benefit options – to provide coverage for children under age 27.

IRS Notice 2010-38 —Tax Treatment of Health Care Benefits Provided with Respect to Children Under Age 27—describes how employers with cafeteria plans — plans that allow employees to choose from a menu of tax-free benefit options and cash or taxable benefits — are required to permit employees to begin making pre-tax contributions to pay for expanded benefits to adult dependents. [<http://www.irs.gov/pub/irs-drop/n-10-38.pdf>]