



Health Care Reform

★★★ INFORMATION UPDATE

October 2010

For Small Businesses

How Grandfather Status Affects Small Business Health Plans

Frequently Asked Questions

Small Businesses with Wellmark Blue Cross and Blue Shield policies with effective dates prior to March 23, 2010 may have “grandfathered” plans under the federal Accountable Care Act (ACA). Under the law, they may choose to keep their grandfathered group health plans and will not be required to change to non-grandfathered plans, which will be subject to a variety of mandated changes.

The questions and answers below provide information on the impact that ACA will have on small business health care plans based on the plan’s grandfathered status.

Q1 What is grandfathering, and why is it important?

A1 While ACA will bring significant change to health plans, businesses also have the right to keep the coverage they had in place prior to the passage of the law. In general, if an employer is satisfied with the group health plan they had prior to the date the law went into effect, and they choose to keep that plan without making many of the changes required by ACA, the plan will be considered grandfathered.

Maintaining grandfathered status means a group health plan will be exempt from many of the ACA provisions. However, if the employer group chooses to make any significant changes to the plan, it could lose grandfathered status and be subject to all the provisions of the law.

Q2 How do you know if a group health plan is grandfathered?

A2 Some simple parameters are used to identify if a group health plan is grandfathered, or non-grandfathered. Specifically, a health plan is considered grandfathered if it was in effect on March 23, 2010, has continuously provided coverage to the employer group since that date with the same carrier, and remains in effect without specific changes noted below.

Q3 Under what circumstances could a group health plan lose grandfathered status?

A3 Maintaining the grandfather status of a plan is dependent on keeping it fundamentally the same. The following chart outlines changes that may be made to a group health plan under the law that will allow the plan to retain grandfather status, and changes that will cause the plan to lose grandfathered status:

Changes that will allow a plan to RETAIN grandfathered status	<ul style="list-style-type: none"> ▪ Census changes such as the removal or addition of employees or their dependent(s)/spouse ▪ Changes to the plan premium
Changes that will cause a plan to LOSE grandfathered status	<ul style="list-style-type: none"> ▪ Change in the current carrier ▪ Termination of your existing Wellmark plan to purchase a new Wellmark plan.



	<ul style="list-style-type: none"> ▪ Plan lapses due to nonpayment ▪ The elimination of all (or substantially all) benefits that cover the diagnosis and treatment of a particular condition. ▪ An increase in percentage cost-sharing requirement (e.g., coinsurance), larger than the amount allowed under the law. ▪ An increase in fixed amount-sharing requirement (e.g., coinsurance), larger than the amount allowed under the law. ▪ An increase in fixed amount copayment larger than the amount allowed by law. ▪ A decrease in the employer contribution to the premium by more than 5%. ▪ Changes in annual limits.
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Q4 What are ACA provisions required for grandfathered vs. non-grandfathered plans?

A4 Grandfathered plans are not required to adopt many of the provisions included in the new law, including significant benefit changes that are expected to increase premiums in 2014. The chart below illustrates some of the requirements for grandfathered vs. non-grandfathered group health plans.

ACA Provisions for Small Businesses Including, but not limited to the following:	Grandfather	Non-Grandfather
"Immediate" Provisions: to be implemented first Plan Year on or after 9/23/2010		
Young Adult Dependents Covered to age 26 <i>(Grandfathered groups do not have to offer enrollment to dependents if they are eligible for coverage through another employer-based plan.)</i>	X	X
Pre-Existing Condition Limitations for children under age 19 is prohibited <i>(pre-existing condition limitations will be prohibited for everyone in 2014)</i>	X	X
Lifetime Limits on "essential" benefits are prohibited	X	X
Restricted Annual Limits on "essential" benefits is limited to: \$750K for Plan Years after 9/23/2010 \$1.25 million for Plan Years after 9/23/2011 \$2 million for Plan Years after 9/23/2012	X	X
Preventive Services* No cost-sharing for recommended preventive services	N/A	X
Non-Discrimination Rules Apply	N/A	X
Minimum Loss Ratio (MLR)	X	X
No rescissions <i>(except for fraud and intentional misrepresentation)</i>	X	X
Emergency Services Pre-Authorization/ Referrals Prohibited	N/A	X



Emergency Services Non-Network Coverage Covered services from non-network providers will be paid at the In-Network benefit level.	N/A	X
Primary Care Physician Member Designation <i>(Allows choice of PCP from any PCP-type in-network provider.)</i>	N/A	X
OB/GYN Referral/Pre-Authorization is Prohibited	N/A	X
Internal and External Appeals Procedures must be compliant <i>(pending further guidance)</i>	N/A	X
Future provisions for consideration and planning <i>(typically first Plan Year after 1/1/2011, 1/1/2012, 1/1/2014, etc.)</i>		
2011 - Over-the-Counter (OTC) drugs - No longer reimbursable under FSA, HSA, HRA, MSA unless prescribed by a doctor (not including insulin). <i>(first Plan Year after 2011)**</i>	X	X
2011 - HSA Non-Qualified Distributions – the penalty increased from 10% to 20% (plus income tax) <i>(first Plan Year after 2011)**</i>	X	X
2011 - Class Act - Creates a new public Long Term Care Program. Participating employers payroll deduct premiums for members, and the members can opt out. <i>(First Plan Year after 2011; voluntary pending further guidance)</i>	X	X
2012 - Uniform Benefit Summary - 4 pages	X	X
2012 – Notice of Modification - 60 days prior notice to members regarding plan modifications <i>(pending further guidance and an effective date)</i>	X	X
2013 - FSA Medical Limit - limit will be capped at \$2,500**	X	X
2014 - No Waiting Periods over 90 days for new hires	X	X
2014 - Annual Limits on "essential" benefits is prohibited	X	X
2014 - Cost Sharing & Deductible limits - cannot exceed out-of-pocket limits that are in effect for qualified high deductible health plans	N/A	X

Q5 What benefit changes will be required due to the passage of ACA?

A5 Wellmark will be incorporating the “Immediate” provisions of the mandated benefits outlined in the chart above for most plans effective January 1, 2011. Additional provisions affecting non-grandfathered plans will become effective through January 1, 2014.

Q6 How will these benefit changes affect rates?

A6 The changes required by the ACA provisions will result in a plan offering richer benefits at increased rates. Please note that, while benefit changes will become effective on January 1, 2011, rates will not change until the plan’s 2011 renewal date. For example, the 100% coverage for preventive care will be added to the rates of non-grandfathered group health plans on their 2011 renewal. If the renewal date was July 1, 2011, the plan would receive the 100% coverage for preventive care on January 1,



2011, but the rates would not be updated until the July 1, 2011 renewal.

Q7 If an employer has made changes to its group health plan and lost grandfathered status, is there an opportunity to revert back to its previous grandfathered plan?

A7 Maybe. Because some employers made plan changes that resulted in a loss of grandfather status before the rules were made public, our group customers will be allowed to review any changes made to their plan(s) and revoke those changes if they affected grandfather status.

- **If group health plan changes were adopted on or before March 23, 2010**, the plan retains grandfather status (see enclosed FAQ for definition of "adoption date").
- **If group health plan changes were made after March 23 and prior to June 14, 2010**, there is an opportunity to revoke these changes and move back to the benefit plan in place on March 23, 2010. This change would be effective as of January 1, 2011, along with applicable rate adjustments. This would allow a group to maintain grandfather status. (Changes made on or after June 14, 2010 are not eligible for revocation, and grandfather status is lost.)

If you wish to revoke changes made to your health plan, contact your agent or Wellmark sales representative by October 29, 2010.

** Preventive services are defined under ACA as those immunizations, screenings, and other services that are listed as recommended by the United States Preventive Services Task Force (USPSTF),* the Health Resources Services Administration (HRSA), and the federal Centers for Disease Control (CDC). * For specific information about USPSTF, HRSA and CDC recommended services, please visit the federal Health Care Reform website: <http://www.healthcare.gov/center/regulations/prevention/recommendations.html>.*

*** The above description about tax rules is general in nature. Please consult your tax advisor about how these rules impact you. This information is not intended to be used for the purpose of avoiding penalties that may be imposed by federal or state taxing authorities.*

Wellmark is not providing any legal advice with regard to compliance with the requirements of the Affordable Care Act ("ACA") and Mental Health Parity and Addiction Equity Act ("MHPAEA"). Regulations and guidance on specific provisions of the ACA and MHPAEA have been and will continue to be provided by the U.S. Department of Health and Human Services ("HHS") and/or other agencies. The information provided reflects Wellmark's understanding of the most current information and is subject to change without further notice. Please note that plan benefits, rates, renewal rate adjustments, and rating impact calculations are subject to change and may be revised during a plan's rating period based on guidance and regulations issued by HHS or other agencies. Wellmark makes no representation as to the impact of plan changes on a plan's grandfathered status or interpretation or implementation of any other provisions of ACA or MHPAEA. Any questions about Wellmark's approach to the ACA or MHPAEA may be referred to your Wellmark account representative.