

Federal Health Care Reform Frequently Asked Questions: Grandfathered Health Insurance Plans

This material should not be construed to constitute legal or compliance advice, as the impact of the law may differ depending on a specific fact situation.

How does the new federal law preserve existing health coverage?

The new federal law, enacted through the "Patient Protection and Affordable Care Act" (PPACA) (Pub. L. No. 111-148) and the "Health Care and Education Reconciliation Act of 2010" (Reconciliation Act) (Pub. L. No. 111-152), establishes a right for individual consumers and employer groups (fully insured and self-funded) to maintain their existing coverage if certain conditions are met - this coverage is referred to as a "grandfathered health plan." To qualify as a "grandfathered health plan," the individual must have been enrolled in the insurance coverage or group plan on the date of enactment (March 23, 2010).

What are the specific statutory provisions with respect to grandfathered health plans?

For grandfather plan language, see Section 1251 and Section 10103(d) of the "Patient Protection and Affordable Care Act (PPACA) and Section 2301(a) of the "Health Care and Education Reconciliation Act (Reconciliation Act)." The legislative text can be accessed through AHIP's Federal Health Care Reform Implementation Toolbox by clicking [here](#).

What 2010 health insurance market reforms must grandfathered health plans comply with?

Grandfathered health plans must comply with the following requirements which become effective for plan years that begin on or after 6 months after enactment:

- prohibition on waiting periods exceeding 90 days before coverage begins;
- no lifetime limits on the dollar value of "essential benefits;"
- prohibition on rescissions (except for fraud or intentional misrepresentation);
- extending dependent coverage until age 26;
- "restricted" annual limits on the dollar value "essential benefits" may be imposed (group only); and
- no pre-existing conditions exclusions for enrollees under age 19 (group only).

For plan years before January 1, 2014, a grandfathered group plan does not have to extend dependent coverage to age 26 if the individual is eligible to enroll in another employer-sponsored plan.

For additional information, please see the AHIP chart on Grandfathered Health Plans: Immediate Individual and Group Market Reforms, which can be found in the member [toolbox](#).

What additional provisions must grandfathered health plans comply with in the near term?

Grandfathered plans must comply with the following provisions in the near term:

- use of uniform "evidence of coverage" documents and standard definitions of insurance and medical terms as determined by the Secretary of Health and Human Services (HHS) (effective two years after enactment); and
- reporting of "medical loss ratios" (effective six months after enactment) and payment of premium rebates if the ratios fall below certain benchmarks (applies only to individual and group insurers beginning no later than January 1, 2011).

What 2014 health insurance market reforms must grandfathered health plans comply with?

Except as discussed immediately below, grandfathered health plans do not have to comply with the 2014 market reforms related to guarantee availability/guarantee issue, community rating, federal rate review, and essential benefit requirements. These plans continue to be exempt from these requirements even upon renewal.

However, individual and group grandfathered health plans must comply with the prohibition on the use of excessive waiting periods and group grandfather plans must comply with the prohibition on pre-existing condition exclusions. Both of these provisions become effective in 2014.

How do the annual and lifetime benefit limits created by federal law affect grandfathered health plans?

Grandfathered individual health plans must comply with the prohibition on lifetime limits on the dollar value of "essential benefits" for plan years that begin on or after 6 months after enactment.

Grandfathered group health plans must comply with the new federal reform provisions that prohibit lifetime limits on the dollar value of "essential benefits" and that restrict annual limits on the dollar value of "essential benefits" for plan years that begin on or after 6 months after enactment. In addition, group grandfathered plans are also subject to the prohibition on annual limits on the dollar value of "essential benefits" that becomes effective in 2014.

The provisions regarding lifetime and annual benefit limits are tied to the designation of an essential benefits package by the HHS Secretary. In addition, HHS is required to define the level of "restricted" annual limits that may be applied for essential benefits. No specific timeframe is included in the federal law for the HHS Secretary to develop the essential benefit package or define the level of "restrictions" for annual limits - but plans must comply by January 1, 2014.

Can dependents be added to a grandfathered health plan?

Source: America's Health Insurance Plans, updated April 16, 2010

Yes. The new federal law explicitly allows for the addition of new dependents to an individual or group grandfathered health plan without disrupting its status under the law. New family members may be added only if such enrollment is permitted under the terms of the grandfathered plan as of the date of enactment.

Can employees be added to a grandfathered group plan?

Yes. New employees (and family members) can be added to a grandfathered group health plan without disrupting its status under the law.

Are additional changes allowed to grandfathered plans?

The law is silent with respect to the impact of additional changes on grandfathered individual and/or group health plans.