



# Health Reform Update for Employer Sponsored Health Plans

## *2010-2011 Summary*

August 24, 2010

- Children covered to age 26
- Pre-existing limitations
- Lifetime and annual maximum limits
- Preventive care coverage requirements
- New appeals process requirements
- Section 105 nondiscrimination rules
- FSA, HSA, HRA changes
- Tax change for dependent coverage
- New W-2 reporting
- Tax Credit for Small Employers
- Early Retiree Reinsurance Program

 Requirements effective on plan years beginning after

<b>All Plans (Including Grandfathered Plans)</b>	<b>New Plans Only (Not applicable to Grandfathered Plans)</b>
Children covered to age 26	Section 105 nondiscrimination rules apply to fully-insured plans
No pre-existing condition limitations for children under 19	No cost sharing for certain preventive care services
No lifetime plan limits, restrictions on annual limits	New appeals process
	“Patient Protections” <ul style="list-style-type: none"> <li>• Allow direct access to pediatricians and OB/GYN</li> <li>• Out-of network emergency coverage requirements</li> </ul>

## Children covered to age 26

- Adult children eligible regardless of tax dependent status or full-time student status
  - Married children eligible, plan does not need to cover spouse or dependent of employees child
  - Note: For grandfathered plans, child must not be eligible for coverage under another employer's group health plan
- Plan enrollment rules (i.e. open enrollment, late enrollment and status change) still apply

## Children covered to age 26

### ➤ Special enrollment required

- Employers must offer a special enrollment opportunity to children made eligible due to the rule
- Must treat as a HIPAA special enrollment
  - i.e. even if employee is not currently enrolled, employer would need to offer employee and adult child an enrollment opportunity

### ➤ Premiums

- May not charge a higher premium for older dependents

### ➤ Notice

- Employer must notify employees of new adult child eligibility
  - May include in benefit communication materials

## Pre-ex limitations

- Plans may not impose pre-existing limitations on children under 19
  - Does not require an employer group plan to provide dependent coverage – it governs how the plan pays claims if it offers coverage to dependents
  - Pre-existing limitations not allowed for all individuals in 2014

## Plan maximum limits

- No lifetime dollar limits on essential health benefits
- Plans can have restricted annual limits no lower than:
  - \$750,000 for plan years beginning after September 23, 2010
  - \$1.25 million plan years beginning after September 23, 2011
  - \$2 million plan years beginning after September 23, 2012
  - No annual limits for essential health benefits permitted beginning in 2014
- Limits on certain services
  - Plan can still include # of days, # of services, and other similar limits
  - Questions remain regarding \$ limits on particular services

2010/2011 (Does not apply to grandfathered plans)

## ○ Preventive care coverage requirements

- Not applicable to grandfathered plans
- Plans must cover certain preventive care with no cost sharing (i.e. deductibles or copays)
  - Includes immunizations, annual check-ups, healthy child visits, breast cancer screenings and other services determined by U.S. Preventive Task Force.
- A general description of covered services:
- <http://www.healthcare.gov/law/about/provisions/services/lists.html>
- A more comprehensive list of services:
- <http://www.healthcare.gov/center/regulations/prevention/recommendations.html>

2010/2011 (Does not apply to grandfathered plans)

## Claims Appeals Process

- Expanded internal appeals process requirements
- New external appeals process to claims disputes
  - External appeal will be state or federally run
- Fully-insured plans
  - Appeal process will be the responsibility of the carrier
- Self-funded plans
  - Administration of appeal likely will be handled by TPA
  - Plan documents will need to be updated

2010/2011 (Does not apply to grandfathered plans)

## Section 105 (h) nondiscrimination rules

- Will apply to fully-insured plans effective on first plan year after 9/23/10
- Tests to determine if plans discriminate in favor of highly compensated individuals
- Highly compensated employee
  - One of five highest paid officers
  - Shareholder owning more than 5%
  - One of highest 25% paid of all employees

2010/2011 (Does not apply to grandfathered plans)

## Section 105(h) nondiscrimination rules

### ➤ Quick check

- If an employer offers the same benefits to all full-time employees with the same eligibility and employer contributions, there will be no problem with the 105(h) rules.
- If an employer clearly provides better benefits, eligibility or contributions to a group of highly compensated employees, the plan will likely violate the 105(h) rules.
- If an employer offers different benefits, eligibility or contributions based on legitimate classes of employees (i.e. salary vs. hourly, locations, etc.) the plan may pass the 105(h) rules and should be analyzed.

## Other 2010/2011 Changes

- New W-2 reporting
  - Applicable for tax year 2011, employer must report aggregate cost of health coverage on W-2
  - Does not effect tax status of benefits
- Federal tax no longer applies to older children coverage
  - Effective March 30, 2010 coverage for child who has not reached age 27 by the end of a tax year is not taxable to employee
- Over-the-counter (OTC) drugs not an eligible expense for FSA, HSA and HRA
- Effective 1/1/2011 - HSA penalty for withdrawal for non-medical expenses increased from 10% to 20%

## ⊗ Tax credit for small employers

- Up to a 35% credit for begging with tax years 2011 for employers with up to 25 FTEs

## ⊗ Early retiree reinsurance program

- Employers providing early retiree coverage to former employees age 55-65