

Interim Final Rule on Group Health Plans and Health Insurance Issuers Relating to Dependent Coverage of Children to Age 26 under the Patient Protection and Affordable Care Act

Background

On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act (PPACA); a week later, he signed the Health Care and Education Reconciliation Act of 2010 (HCERA), which amended some portions of the PPACA. With that, the most comprehensive reform of the American health-care system in many years became law. This law will have a significant impact on employer-sponsored health care, including a provision extending coverage to dependents up to age 26.

On May 13, 2010, the Departments of Labor, Treasury, and Health and Human Services issued an Interim Final Rule (IFR) outlining the definition of dependent along with the process for enrolling the newly eligible dependents. These are outlined below.

Provisions

General

- A group health plan or health insurance issuer that offers group coverage and covers dependent children must make such coverage available to adult children until they reach 26 years of age.
 - The plan will fulfill this requirement if it offers coverage up until the day before the dependent's 26th birthday.
 - The age of the adult child is the only factor that is used to determine dependent eligibility status.

Definition of Dependent

- A plan or issuer may not, for eligibility purposes, define "dependent" on any terms other than the relationship between a child and plan participant.
 - Nothing in this section of the IFR requires a plan or issuer to cover dependents of adult children.
 - The exception to this is for plans that have grandfathered status. Grandfathered plans are allowed to deny eligibility to non-dependent adult children who have another offer of employer coverage for plan years beginning before January 1, 2014.
- The terms of the plan or health insurance coverage cannot vary based on age (unless the coverage is for adult children aged 26 or over).
- The only factor that can be used to determine dependent eligibility status is the age of the individual.

Special Enrollment Period

- An employer must provide an enrollment period of at least 30 days (including written notice of the opportunity to enroll) to all dependents whose coverage ended or who were denied coverage because the availability of dependent coverage ended before the attainment of age 26 OR who become eligible for coverage on the first day of the first plan year beginning on or after Sept. 23, 2010.
 - The opportunity to enroll must be provided beginning no later than the first day of the first plan year beginning on or after Sept. 23, 2010.
- The written notice must include a statement that dependents who were previously denied coverage or whose coverage ended because they were no longer eligible due to their age are eligible to enroll in plan coverage, as long as they have not attained 26 years of age and, for grandfathered plans prior to 2014, do not have coverage through another employer.
 - This notice may be provided to an employee on behalf of the employee's adult child.
 - This notice may be included with other enrollment materials that a plan distributes (e.g., during an annual open enrollment period) as long as this statement is prominent.
- Coverage must take effect no later than the first day of the first plan year that begins on or after Sept. 23, 2010.
- The adult child, or the plan participant through whom the adult child is otherwise eligible for coverage, must be offered all the benefit packages available to similarly situated individuals who did not lose coverage by reason of cessation of dependent status.
 - Any difference in benefits or cost-sharing requirements constitutes a different benefits package.

- The adult child cannot be required to pay more for coverage than a similarly situated individual who did not lose coverage by reason of cessation of dependent status.

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