



PHSA Mandates

Grandfathered Health Plans

What is a Grandfathered health plan? Under PPACA, health plans that were in existence on March 23, 2010 are excused from some of the mandates in the Public Health Service Act (PHSA). To remain grandfathered, the plan must have continuously covered someone since March 23, 2010, and could not have any changes that would jeopardize the grandfathered status.

Some changes that would cause the plan to lose grandfathered status are: any increase in percentage cost sharing (an increase in coinsurance), an increase in a fixed amount cost sharing (deductibles, copays, or out of pocket maximum) that exceeds 15% of the medical inflation rate, or a decrease in the rate of employer contributions for any tier by more than five percentage points.

Grandfathered health plans are excused from some, but not all of the PHSA mandates. For example, businesses must comply with automatic enrollment, the employer “play or pay” penalty, new notice requirements, the “Cadillac” plan excise tax, and new tax requirements related to HSAs, HRAs, and FSAs.

Grandfathered plans are excused from several of the mandates, such as the fair health insurance premiums, guaranteed availability, guaranteed renewability, nondiscrimination based on health status, nondiscrimination against health care providers, coverage of preventative health services, and several others.

Group health plans that were in existence on March 23, 2010 are excused from some of the health care reform requirements. This rule is the “grandfather rule” and the plans that fall within the rule are “grandfathered plans.” Certain changes in plan terms may cause a plan to lose grandfathered status.

There are advantages and disadvantages in maintaining a grandfathered health plan.

Employers who wish to preserve grandfathered status should carefully review their options and the cost of keeping their current plan. Although these plans are excused from many of the PHSA mandates, groups with grandfathered status will have less flexibility than groups with non-grandfathered plans.

Employees on a non-grandfathered plan have no cost sharing for preventative services, while those on a grandfathered plan still pay a copay or deductible. Groups may consider this a disadvantage from a consumer standpoint, but an advantage when looking at the difference in premiums. Non-grandfathered health plans cannot discriminate based on health conditions, while grandfathered plans are still underwritten. For a healthy group, this is a major disadvantage of losing grandfathered status. While grandfathered plans may discriminate based on age, a non-grandfathered plan uses a community rating, which will cause the older population’s premiums to fall, and the younger population’s premium to rise. Groups may find the new mandates and added administration cumbersome, while others may find the limited flexibility of a grandfathered plan to outweigh the administrative cost.

Employers should carefully evaluate their own situation to determine the relative cost versus the benefit of preserving grandfathered status. Ultimately, these decisions will involve a comparison by the sponsor to adjust plan structure for controlling costs or achieving other business objectives.

PHSA Provision	Description	Applies to grandfathered health plans?
2701	<i>Fair health insurance premiums-</i> premiums may only vary based on coverage category, rating area, age (may not vary by more than 3:1), and tobacco use (may not vary more than 1.5:1)	No
2702	<i>Guaranteed availability</i>	No
2703	<i>Guaranteed renewability</i>	No
2705	<i>Nondiscrimination based on health status</i>	No
2706	<i>Nondiscrimination against health providers</i>	No
2707	<i>Comprehensive health insurance coverage</i>	No
2709	<i>Coverage for clinical trials</i>	No
2713	<i>Coverage of preventative health services</i>	No
2715A	<i>Transparency in coverage</i>	No
2716	<i>Nondiscrimination for insured plans</i>	No
2717	<i>Quality of care reporting</i>	No
2719	<i>Appeals process</i>	No
2719A	<i>Patient protections</i>	No
2704	<i>PCE Prohibition</i>	Yes- applies to group plans, not individual coverage
2708	<i>Excessive waiting periods</i>	Yes
2711	<i>Annual/lifetime limits</i>	Yes- but annual limits do not apply to individual coverage
2712	<i>Rescission prohibition</i>	Yes
2714	<i>Dependent coverage for children under age 26</i>	Yes- but coverage need not be provided until 2014 if the dependent is eligible for other employer sponsored coverage
2715	<i>Four page summary of benefits and coverage</i>	Yes
2718	<i>Bringing down the cost of coverage (reporting and rebates)</i>	Yes

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