

# HEALTH INSURANCE COVERAGE OF ADULT CHILDREN UP TO AGE 26

## WHAT IS IT?

The Patient Protection and Affordable Care Act (The Act) made several important changes that will impact employer provided healthcare plans. One of the most significant changes is the mandatory extension of dependent coverage until age 26. Our summary covers the main aspects of this provision, as well as the options for group health plans with respect to how and when this coverage mandate can be implemented.

## THE COVERAGE MANDATE

The coverage mandated for dependents to age 26 is as follows:

- Plans that already offer dependent coverage are required to offer coverage for adult children up to age 26.
- Plans are required to comply with the mandate as of the first plan year beginning after September 23, 2010. Thus, for calendar year plans this will be effective January 1, 2011; and for plan years that begin on July 1, compliance is required as of July 1, 2011.
- Dependent coverage must be offered regardless of tax dependent status and student status. Coverage also must be offered regardless of whether the adult dependent child is living with the parents, or whether the adult dependent child is married. (Note, however, that the coverage requirement does NOT extend to the spouse or children of the adult dependent).
- Coverage for older dependents must be offered on a “same benefits, same price” basis. Adult children must be offered the same benefits as other dependents, and adult dependents cannot be required to pay more for coverage than other similarly situated dependents.
- Dental and vision benefits, otherwise referred to as “excepted benefits” within the Act, are not subject to the mandatory extension of coverage for adult children.
- “Grandfathered” group health plans are granted a transition period between the effective date and January 1, 2014, during which the group health plan is NOT required to provide dependent coverage up to age 26 if the adult child has another offer of employer-based coverage. Note that coverage through the other parent’s plan is NOT considered an “offer of employer-based coverage,” therefore, the adult dependent must be offered employer-based coverage as part of their own employment.

### Special Note Regarding “Grandfathered” Plans:

A group health plan that was in effect as of the date of enactment, March 23, 2010, is considered to be grandfathered. Grandfathered plans are not required to implement certain provisions of the healthcare reform legislation. However, guidance is still to be released regarding the types of changes that may be allowed to group plans that would not cause a loss of grandfathered status. At this point, the only changes that are specifically allowed without affecting grandfathered status are:

1. Changes made specifically to comply with the healthcare reform legislation, and
2. Permitting new employees and new dependents to enroll under the plan

Will changes to office visit copays, deductibles, Rx copays, or employee premium sharing result in a loss of grandfathered status? At this point it is unknown (the legislation is silent on these issues), but plans that make changes now are, at a minimum, risking the loss of their grandfathered status, depending on the guidance that is released. Plans that ARE grandfathered (or will proceed as grandfathered until guidance determines otherwise), will need to implement administrative procedures for adult dependents to certify that they do not have access to other employer-provided coverage.

## NEW TAX BENEFITS

While the Act requires healthcare plans to cover dependent children up to age 26, the Act extends favorable tax treatment beyond the dependent's 26th birthday. Effective immediately, the Patient Protection and Affordable Care Act amends Code section 105(b) to exclude from gross income the value of any employer-provided health coverage for an employee's child who has not attained age 27 as of the end of the taxable year.

## OPTIONS AVAILABLE TO INSURED GROUP HEALTH PLANS

As described above, insured group health plans are required to implement the dependent coverage to age 26 requirement as of the first plan year beginning after September 23, 2010. In the interim period, the Secretary of Health and Human Services has requested that health plans across the country begin the implementation of this requirement in advance of the required date, in order to avoid gaps in coverage for many dependents who would otherwise lose their coverage, and then be eligible to reenroll at the first renewal date after September 23, 2010.

To that end, most local carriers have agreed to partially implement this provision. Specifically, the carriers have agreed that for adult dependents under age 26 that are currently enrolled as dependents in the health plan and would otherwise lose their coverage on or after June 1, 2010 due to a loss of dependent status, the carrier will not drop these dependents from coverage. It is important to note that this provision does NOT allow for dependents under age 26 that were not eligible dependents in the plan to re-enroll at this time. These individuals must wait until the required implementation date after September 23, 2010.

### Depending on your insurance carrier and funding method three basic options may exist:

- 1. Accept the partial early implementation by the carriers.** From a cost perspective for insured plans, there should be no adverse impact, as the carriers are not charging an increased rate for this early implementation. However, the sponsor of an insured experience-rated plan will want to pay close attention to the rating factor used for this provision at renewal. The impact should be mitigated to some degree by the fact that the base experience period in the renewal would already contain a partial year of experience reflecting the increased eligibility and claims. For self-funded plans, attempting to mirror what the carriers are doing will have a more immediate impact on costs, as the plan, not the carrier, is taking the risk for the increased costs associated with covering additional dependents.

The other consideration is a matter of benefit equity. Adult dependents as of a designated date would be allowed to remain on the coverage, while other similarly situated dependents would not be eligible to re-enroll until after the implementation date. For insured plans, this can be explained simply as the position imposed by the insurance carrier, it still may create a short-term issue for HR departments. For self-funded plans that are more in control of eligibility requirements, the argument that the carriers are imposing this position will not be as strong. These plans should consider an all-or-nothing approach for this transition period.

- 2. Decline the early implementation offered by the carrier,** and wait for the required implementation date. This will solve the issue of benefit equity, but will cause a loss of coverage for dependents that will ultimately be allowed to re-enroll after the implementation date. Upon renewal, the carrier will apply a rating factor to account for increased costs associated with these additional dependents. Particularly for self-funded plans, this is clearly the approach that results in the least cost impact over the interim period.

For HR Departments, a consideration against this approach is that employees may react negatively to not being allowed to cover their adult dependent children, in part because they are seeing other plans in the marketplace implementing early, even if only partially.

- 3. Request that the full provision for dependents up to age 26 be implemented early,** including a special enrollment period for those not currently eligible to re-enroll. Per the IRS, 125 cafeteria plans can permit this re-enrollment as a change in status. For insured plans, carriers will almost certainly apply a rating factor immediately to account for the increased costs associated with these dependents. The impact for self-funded plans will be similar, except for the fact that self-funded plans will experience the impact as the actual expenses materialize, as opposed to insured plans that will simply pay higher premiums for estimated costs that are expected as a result of the mandate. The early indications from carriers are that this provision could result in increased costs between .75% and 2% of total premium costs.

For groups implementing early, we strongly recommend implementing administrative procedures to obtain information regarding other employer-provided coverage for adult dependents on the plan. Guidance should be released soon to clarify the requirements of plans with grandfathered status, but nevertheless sponsors should take steps to ensure they can limit the adverse selection impact to their plans if they are in fact determined to be grandfathered.

If you have additional questions about the mandatory extension of healthcare coverage to adult children, we have provided links to the Department of Labor for guidance.

Regulations: <http://edocket.access.gpo.gov/2010/pdf/2010-11391.pdf>

Fact sheet: <http://www.dol.gov/ebsa/newsroom/fsdependentcoverage.html>

FAQs: <http://www.dol.gov/ebsa/faqs/faq-dependentcoverage.html>

As always, should you need further compliance assistance, please do not hesitate to contact us at [HWcompliance@conradsiegel.com](mailto:HWcompliance@conradsiegel.com).

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