



# HR & BENEFITS UPDATE

## **New Regulations Define “Grandfathered” Group Health Plans & Health Insurance Coverage under the Patient Protection and Affordable Care Act**

**Affordable Care Act Health Plan Guidance Update Teleconference Briefing Planned July 9**

June 15, 2010

The U.S. Departments of Health and Human Services, Labor and Treasury on Monday (June 14, 2010) published regulations on when group health plans and insurance qualify as “grandfathered plans” for purposes of determining deadlines for complying with certain health care reform requirements imposed under the Patient Protection & Affordable Care Act (Affordable Care Act). The regulations are the latest in a series of emerging guidance that federal agencies have issued regarding the Affordable Care Act since its enactment in March, 2010. By shaping the mandates applicable to group health plans, the grandfather rules will impact both the cost and the design of affected group health plans. Accordingly, understanding whether its group health plan can qualify as grandfathered, and the implications of this status on the plan design options can be critical to make wise plan design decisions and cost and liability projections for the next few years.

*To assist concerned business leaders, plan fiduciaries and plan administrators to understand and cope with these new rules, Solutions Law Press author Cynthia Marcotte Stamer will host a teleconference briefing on these new regulations and other Affordable Care Act health plan guidance on July 9, 2010 from 11:30 a.m. to 1:30 p.m. Central Time. E-mail [here](#) to request an invitation and registration information.*

### **Grandfathered Plans Under Affordable Care Act**

While the Affordable Care Act generally will require that all health plans provide new mandated benefits and other rights to covered persons beginning with plan years starting after September 22, 2010, health plans that existed on March 23, 2010 that qualify as “grandfathered” are exempt from some new requirements. The regulation published yesterday specifies what health plans must do to qualify for grandfathered status for purposes of these requirements.

As part of its first wave of health insurance reforms, the Affordable Care Act dictates that all health plans – whether or not they are grandfathered plans – must provide certain benefits to covered persons for plan years starting on or after September 23, 2010 including:

- No lifetime limits on essential benefit coverage for all plans;
- No rescissions of coverage when people get sick and have previously made an unintentional mistake on their application; and
- Extension of parents’ coverage to young adult children under 26 years old;

For post September 22, 2010 plan years, non-grandfathered plans also generally will be required to meet certain other conditions including:

- No coverage exclusions for children with pre-existing conditions;
- No “restricted” annual limits set by regulations to be issued in the future;
- Coverage of recommended prevention services with no cost sharing; and

- Patient protections such as access to OB-GYNs and pediatricians without a referral by a separate primary care provider;
- Greater freedom for patients to obtain certain emergency treatment without certain plan restrictions; and
- Other requirements.

Under the Affordable Care Act, grandfathered plans are exempt from certain of these mandates and may enjoy delayed compliance deadlines for certain other requirements.

The grandfather rule published June 14 provides certain “routine changes” will not cause a health plan that existed on March 23, 2010 to forfeit grandfathered status. Allowable changes include cost adjustments to keep pace with medical inflation, adding new benefits, making modest adjustments to existing benefits, voluntarily adopting new consumer protections under the new law, or making changes to comply with State or other Federal laws. For this purpose, the regulation states that premium changes are not taken into account when determining whether or not a plan is grandfathered.

On the other hand, the regulation provides that a health plan that existed on March 23, 2010 will forfeit its eligibility for grandfathered status if the plan is amended to make significant changes that reduce benefits or increase costs to covered persons.

Furthermore the regulation also addresses the effect of mergers and acquisitions and various other events and amendments on the eligibility of health plans for grandfathered status.

You can view the regulation [here](#). Details about what routine changes insurers and employers can make without losing their grandfathered status, and the projected impact on large and small employer plans and the individual plan market can be found [here](#). A fact sheet about the regulation can be found [here](#). You can read the Questions and Answers on the Regulation [here](#).

If you need help reviewing or responding to the grandfather regulations or other health benefit regulations or other related matters please contact Cynthia Marcotte Stamer [here](#) or (469)767-8872.

### **July 9, 2010 Teleconference Briefing On Affordable Care Act & Other Changing Health Plan Rules**

The new group health plan mandates made applicable to group health plans and health insurers for health plan years beginning after September 22, 2010 are only one of a host of changes in federal requirements for health plans effective during 2010. In addition to the impending changes made by the Affordable Care Act, numerous other new federal rules for group health plans have or will take effect under other previously enacted statutory and regulatory changes. Group health plans and their sponsors, insurers, fiduciaries and administrators must prepare to comply with a broad range of federal requirements for health plan that take effect for 2009 and 2010 plan years as well as their applicable obligations under the Affordable Care Act.

*Solutions Law Press author Cynthia Marcotte Stamer will host a teleconference briefing on these new regulations and other Affordable Care Act health plan guidance on July 9, 2010 from 11:30 a.m. to 1:30 p.m. Central Time. E-mail [here](#) to request an invitation and registration information.*

#### **About Ms. Stamer**

Board Certified in Labor & Employment Law by the Texas Board of Legal Specialization, management attorney and consultant Ms. Stamer is nationally and internationally recognized for more than 23 years of work helping employer and other plan sponsors, insurers, administrators, fiduciaries, governments and others design, administer and defend innovative health and other employee benefit programs and other human resources, compensation and management policies and practices.

As a core focus of her practice, Ms. Stamer works extensively with employer and other health plan sponsors, fiduciaries, administrative and other service providers, insurers, and other clients on health benefit program and product design, documentation, administration, compliance, risk management, and public policy matters. The publisher of Solutions Law Press, Ms. Stamer also publishes, conducts training and speaks extensively on these and related concerns for the ABA, the Bureau of National Affairs and many other organizations. Please join us for what promises to be a most interesting discussion.

The Chair of the American Bar Association (ABA) RPTE Employee Benefits & Other Compensation Committee, a Council Representative on the ABA Joint Committee on Employee Benefits, Government Affairs Committee Legislative Chair for the Dallas Human Resources Management Association, past Chair of the ABA Health Law Section Managed Care & Insurance Interest Group, and the editor and publisher of [Solutions Law Press HR & Benefits Update](#) and other Solutions Law Press Publications, Ms. Stamer also is recognized for her publications, industry leadership, workshops and presentations on these and other health industry and human resources concerns. She regularly speaks and conducts training for the ABA, Institute of Internal Auditors, Society for Professional Benefits Administrators, Southwest Benefits Association and many other organizations. Publishers of her many highly regarded writings on health industry and human resources matters include the Bureau of National Affairs, Aspen Publishers, ABA, AHLA, Aspen Publishers, Schneider Publications, Spencer Publications, World At Work, SHRM, HCCA, State Bar of Texas, Business Insurance, James Publishing and many others. You can review other highlights of Ms. Stamer's experience [here](#). Her insights on these and other matters appear in Managed Care Executive, Modern Health Care, the Wall Street Journal, the Dallas Business Journal, the Houston Business Journal, MDNews, Kentucky Physician, and many other national and local publications.

If you need help with human resources or other management, concerns, wish to ask about compliance, risk management or training, or need legal representation on other matters please contact Cynthia Marcotte Stamer [here](#) or (469)767-8872.

#### **Other Resources**

If you found this information of interest, you also may be interested in reviewing other updates and publications by Ms. Stamer including:

- [Stamer Speaks On "Designing Legally Defensible Wellness Programs That Work Amid Changing Federal Regulations" On June 10 in Dallas](#)
- [New Rule Requires Federal Government Contractors To Post New "Employee Rights Under The National Labor" Poster](#)
- [Stamer Speaks June 9 On "Health Care Reform's Implications For Employers, Health Plans & Employee Benefits Practitioners" In Houston](#)
- [Defined Contribution Plans Investing In Publically Traded Employer Securities Face New Requirements](#)
- [CBO Raises Estimated Cost of Health Care Reforms As Employers, Health Plans Brace Costs Of Newly Effective & Impending Mandates](#)
- [Join Project COPE: Help Develop Real Tools To Meaningfully Empower Patients & Improve Health Care Access, Affordability & Quality](#)
- [Unemployment, COBRA Premium Subsidy Temporarily Extended As Congress Mulls Passing Longer Relief](#)
- [Agencies Invite Public To Share Input About Insurer Obligation To Report About Health Premium Use Under Health Care Reform Law](#)

- [TSHHRAE Provides Health Industry HR & Other Managers Employment Law Update & Other Timely Management Training At April Barnstorm 2010: Creating Effective Leaders Programs](#)
- [New Study Shares Data On Migrant Health Care Challenges Along The Border](#)
- [Getting Your Health Care Reform Message Heard By Key Congressional Leaders](#)
- [Extension of Unemployment Benefits Signed Into Law & Immediately Effective As Filibuster Ends](#)
- [COBRA Premium Subsidy Requirements Expanded & Extended Under Newly Signed Unemployment Extension Legislation](#)
- [Employers Concerned About New Union Powers As NLRB Orders Union Elections In 31 California Health Care Facilities To Proceed](#)
- [Privacy Rule Changes & Posting of Breach Notices On OCR Website Signal New Enforcement Risks For Health Plans, Their Sponsors & Business Associates](#)
- [SouthWest Benefits e-Connections Highlights Stamer Article About Importance For Health Plans, Their Sponsors & Business Associates To Update HIPAA Policies, Practices & Agreements](#)
- [Health Plan Liability Heats Up As Plans & Businesses Face New Obligations, Costs & Exposures under New HIPAA Privacy Rules Effective 2/17 & Other Expanding Federal Health Plan Mandates](#)
- [Employers, Group Health Plans Subject To New CHIP/Medicaid Notice, Coordination of Benefits & Special Enrollment Requirements](#)
- [Health Plans & Business Associates Face 2/17 Deadline To Update Policies, Contracts & Procedures For HIPAA Privacy Rule Changes](#)
- [St. Louis Employer's OSHA Violations Trigger Contempt Order and Penalties](#)
- [Labor Department Final H-2A Certification Procedures Tighten Requirements For Employment Of Temporary Agricultural Employment Of Workers](#)
- [COBRA, HIPAA, GINA, Mental Health Parity or Other Group Health Plan Rule Violations Trigger New Excise Tax Self-Assessment & Reporting Obligations](#)
- [Inapplicability of HIPAA Privacy To Disability Insurer Not License To Impose Unreasonable Claims Requirements](#)
- [New Mental Health Parity Regulations Require Health Plan Review & Updates](#)

If you or someone else you know would like to receive future updates about developments on these and other concerns, please be sure that we have your current contact information – including your preferred e-mail – by creating or updating your profile [here](#) or e-mailing this information [here](#) or registering to receive our Solutions Law Press distributions [here](#). For important information about this communication click [here](#). If you do not wish to receive these updates in the future, send an e-mail with the word “Remove” in the Subject to [here](#).

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