GRANDFATHERED PLANS

What are grandfathered plans?

A grandfathered plan is a group health plan that was in place when the Patient Protection and Affordable Care Act (PPACA) was signed into law, on March 23, 2010.

Health insurance plans established after PPACA cannot be grandfathered.

The advantage of being grandfathered is that these health plans do not have to follow some health insurance reform provisions, such as the requirement to cover all preventive care services with no cost-sharing, for as long as they remain grandfathered. See our timeline for more details.

The Departments of Health & Human Services, Labor, and Treasury developed rules for maintaining grandfathered status. Plans remain grandfathered indefinitely unless companies:

- Significantly reduce benefits
- Increase costs to their employees, or
- Reduce how much the employer pays toward benefits

As of November 17, 2010, employers have additional flexibility to keep grandfathered status if they:

- Change plan funding from self-insured to fully-insured
- Change insurance companies if they offer the same coverage

For a group health insurance plan to decide to stay grandfathered, the group health plan must weigh the financial result of following health reform rules against being able to make cost-effective benefit plan changes.

Insured collectively bargained health insurance plans are subject to a special grandfathering rule. They do not have to follow any PPACA health insurance reforms until the last of the collective bargaining agreements under the health plan in effect on March 23, 2010 ends. At this point, the PPACA's other grandfathered rules would apply.

Changes that trigger a loss of grandfathered status
All changes must be compared to the plan that was in effect on 3/23/2010. This comparison must be made annually and whenever there is a change in benefits or employer contribution level.

Triggers requiring a calculation

The following section includes a calculation that references the medical inflation factor.

- The medical inflation factor as of June 2018 is 25.54%. The calculation is based upon the Consumer Price Index (CPI) for the "SAM Medical Care" category from March 2010 and is updated monthly.
- Employers may select the medical inflation factor from any month in the 12-month period preceding the change effective date.
- 15%, the amount identified by HHS, is added to the medical inflation factor to determine the cumulative percentage.
- If a plan changes a copay, deductible, or out-of-pocket maximum by an amount that exceeds medical inflation plus 15% since March 23, 2010, it will lose grandfathered status.

Loss of Status Triggers	Rules	Examples
Significantly increase copays	• Addition of a new copayment • Increase in an existing (3/23/10) copayment by more than the greater of: (A) $5 plus medical inflation, or (B) a percent equal to medical inflation +15%	Adding a copay not in effect on 3/23/10 will cause loss of grandfathered status. Changing a copay from $5 to $15 will cause loss of grandfathered status because it exceeds medical inflation + 15%. Applies to all types of copays including PCP, Specialist, Emergency Room, Urgent Care, Inpatient Hospitalization, etc.
Significantly increase deductibles or out-of-pocket maximums	Increasing an individual and/or family deductible or out-of-pocket maximum by an amount that exceeds medical inflation + 15% of the level in effect on 3/23/10.	Changing an individual deductible from $500 to $1,000 will cause loss of grandfathered status because it exceeds medical inflation + 15%.

Calculation example:

$500 deductible
Medical inflation factor of 25.54% + 15% identified by HHS = 40.54% cumulative percentage
$500 x 1.4054 = $702.70
If the deductible changes to an amount greater than $702.70, grandfathered status will be lost.

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Loss of Status Triggers	Rules
Increase percentage cost sharing such as coinsurance	A plan or policy cannot add or increase any percentage cost-sharing requirement (e.g., coinsurance) above the percentage in effect on 3/23/10.
Eliminating or reducing benefits	A plan or policy cannot eliminate or significantly reduce all benefits for the diagnosis or treatment of a particular condition
Lowering level of employer contribution toward the cost of coverage	A decrease in an employer's contribution rate by more than 5% from the contribution level on 3/23/10. The 5% contribution cap is a cumulative percentage. Once the 5% decrease is reached, the plan's grandfathered status is lost
Changes in annual limits	If the policy or group health plan did not have an overall lifetime or annual limit for all benefits on 3/23/10, imposing an annual limit triggers loss of grandfathered status. If the policy or group health plan had a lifetime limit but no annual limit for all benefits on 3/23/10, imposing an annual limit that is less than the lifetime limit triggers loss of grandfathered status. If the policy or group health plan had an annual limit for all benefits on 3/23/10, any decrease in the annual limit will trigger loss of grandfathered status.
Mergers and acquisitions	If the principal purpose of a merger, acquisition, or similar business restructuring is to cover new individuals under a grandfathered group health plan, that plan loses its grandfathered status.
Moving employees from one plan to another with lesser benefits	Transferring employees who were covered under a group health plan on 3/23/10 to another plan that is grandfathered will cause the grandfathered plan to lose its grandfathered status if treating the grandfathered plan as an amendment of their prior plan has caused the prior plan to lose grandfathered status. Exception- if there is a bona fide employment-based reason for the transfer.
Provision of "grandfathering" statement	Failure to include in plan materials provided to participants that describe benefits a notice that the plan is grandfathered (there is a model notice form) will trigger a loss of grandfathered status.
Scenarios related to state mandates that may impact grandfathered status	Reduction of benefits

Changes that will not result in the loss of grandfathered status

- Addition of family members of an individual who is enrolled in a grandfathered plan and addition of new employees (whether newly hired or enrolled) in a grandfathered plan.
- Disenrollment of one or more individuals enrolled on March 23, 2010 (provided that the plan or coverage has continuously covered someone since March 23, 2010).
- Changes in premiums.
- Changes required to conform to federal and state laws and regulations or state mandates.
- Voluntary adoption of ACA consumer protections.
- Changing third-party administrators (TPAs).
- Changing carriers for an insured group plan (effective with 11/17/2010 amendment; if the change was made before 11/17/2010, grandfathered status was lost).
- Changing funding from self-funded to fully insured (effective with 11/17/2010 amendment; if the change was made before 11/17/2010, grandfathered status was lost).

The Federal government has yet to clarify whether a change in prescription drug formulary or network will cause a loss in grandfathered status.