

# U.S. Departments of Health and Human Services, Labor, and Treasury Issue Regulation on “Grandfathered” Health Plans under the Affordable Care Act

Allowing Americans to Keep Current Health Plans or Choose a New Plan  
While Extending Important New Benefits to All Consumers

Great Lakes Hemophilia Foundation  
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The U.S. Departments of Health and Human Services, Labor and Treasury today issued a new regulation that makes good on President Obama’s promise that Americans who like their health plan can keep it.

The new regulation protects the ability of individuals and businesses to keep their current plan while providing important consumer protections that give Americans - rather than insurance companies - control over their own health care. The new regulation also provides stability and flexibility to insurers and businesses that offer health insurance coverage as the nation transitions to a more competitive marketplace in 2014 when businesses and consumers will have more affordable choices through

exchanges.

“The Affordable Care Act gives American families more control over their health care by providing greater benefits, cost savings and protections,” said Secretary of Health and Human Services Kathleen Sebelius. “Today, with the announcement of the new ‘grandfather’ rule, we’re providing the market stability and flexibility to ensure that families and businesses can make the choices that work best for them.”

While the Affordable Care Act requires all health plans to provide important new benefits to consumers, under the law, plans that existed on March 23, 2010 are exempt from some new requirements. The “grandfather rule” issued today makes it clear that these plans can continue to innovate and contain costs by allowing insurers and employers to make routine changes without losing grandfather status. Plans will lose their “grandfather” status if they choose to significantly cut benefits or increase out-of-pocket spending for consumers - and consumers in plans that make such changes will gain new consumer protections.

“The rule we are announcing today will allow employers to make routine and modest adjustments to co-payments, deductibles and employer contributions to their employees’ premiums without forfeiting grandfather status. This flexibility will encourage employers to continue offering health coverage to their employees and help to ensure coverage for all Americans,” said Secretary of Labor Hilda Solis.

All health plans - whether or not they are grandfathered plans - must provide certain benefits to their customers for plan years starting on or after September 23, 2010 including:

- No lifetime limits on 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 adults under 26 years old](#);

For the vast majority of Americans who get their health insurance through employers, additional benefits will be offered, irrespective of whether their plan is grandfathered, including:

- No coverage exclusions for children with pre-existing conditions; and
- No “restricted” annual limits (e.g., annual dollar-amount limits on coverage below standards to be set in future regulations).

“The Affordable Care Act positions consumers, instead of insurance companies, as decision makers when it comes to their health care,” said Assistant Treasury Secretary for Tax Policy Michael Mundaca. “The rule we’re announcing today preserves individuals’ ability to keep their current plan and provides strong consumer protections that give Americans more control over their health insurance choices.”

Grandfathered health plans will be able to make routine changes to their policies and maintain their status. These routine 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. Premium changes are not taken into account when determining whether or not a plan is grandfathered.

Plans will lose their grandfathered status if they choose to make significant changes that reduce benefits or increase costs to consumers. If a plan loses its grandfathered status, then consumers in these plans will gain additional new benefits including:

- 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.

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 at [http://www.healthreform.gov/newsroom/keeping\\_the\\_health\\_plan\\_you\\_have.html](http://www.healthreform.gov/newsroom/keeping_the_health_plan_you_have.html).

Most of the 133 million Americans with employer-sponsored health insurance through large employers will maintain the coverage they have today. Additionally, large employer-based plans already offer most of the comprehensive benefits and consumer protections that the Affordable Care Act will provide to all Americans this year - such as preventing rescission of coverage.

The roughly 42 million people insured through small businesses will likely transition from their current plan to one with the new Affordable Care Act protections over the next few years. Small plans tend to make substantial changes to cost sharing, employer contributions, and health insurance issuers more frequently than large plans. To help small businesses afford employee coverage, the Affordable Care Act includes a tax credit for up to 35% of their premium contributions.

The 17 million people who are covered in the individual health insurance market, where switching of plans and substantial changes in coverage are common, will receive the new protections of the Affordable Care Act sooner rather than later. Roughly 40 percent to two-thirds of people in individual market policies normally change plans within a year. In the short run, individuals whose plan changes and is no longer grandfathered will gain access to free preventive services, protections against restricted annual limits, and patient protections such as improved access to emergency rooms.

In 2014, small businesses and individuals who purchase insurance on their own will gain access to the competitive market Exchanges. These Exchanges will offer individuals and workers in small businesses with a much greater choice of plans at more affordable rates - the same choice as members of Congress. In fact, the Congressional Budget Office (CBO) has estimated that, on an apples-to-apples basis, premiums will be 14- 20 percent lower than they would be under current

law in 2016 due to competition, lower insurance overhead, and increased pooling and purchasing power. Small businesses also will have more affordable options. CBO has estimated that a family policy for small businesses would be available in the Exchanges at a premium that is \$4,000 lower than under current law in 2016.

These reduced premiums do not take into account the tax credits available to small businesses and middle class families to help make insurance affordable. These additional new choices and cost savings may further lower the likelihood that small businesses workers will remain in grandfathered health plans. Consumers insured through large employers are more likely to remain in grandfathered plans in 2014 and beyond.

A fact sheet about the regulation can be found at:

[http://www.healthreform.gov/newsroom/keeping\\_the\\_health\\_plan\\_you\\_have.html](http://www.healthreform.gov/newsroom/keeping_the_health_plan_you_have.html).

Read the Questions and Answers on the Regulation at

<http://www.healthreform.gov/about/grandfathering.html>.

You can view the regulation at: <http://www.regulations.gov/search/Regs/contentStreamer?objectId=0900006480b03a90&disposition=attachment&contentType=pdf>.

The original article can be found at:

<http://www.hhs.gov/news/press/2010pres/06/20100614e.html>