Questions and Answers: Keeping the Health Plan You Have: The Affordable Care Act and "Grandfathered" Health Plans

During the health reform debate, President Obama made clear to Americans "if you like your health plan you can keep it." He emphasized that nothing in the health reform law would force businesses or consumers to change health plans or change their doctor. The new "grandfather" rule implements the grandfather provisions of the Affordable Care Act designed to allow strong health plans to continue to grow and remain vibrant. The grandfather rule enables businesses and families to keep their plan while adding important new benefits for all Americans with private insurance. It provides both market stability and a more level playing field as people, businesses, insurers and medical providers adapt to the historic reforms of the Act.

Here are answers to key questions about how the Affordable Care Act, and the "grandfather" rule which implements part of the Act, will affect individuals, employers and insurers.

What the New Rule Means for Individuals Purchasing Health Insurance On Their Own:

Q: What effect will the new rule have on my health coverage?

A: The new rule will allow you to keep your current coverage if you like it and still benefit from many of the new consumer protections in the Affordable Care Act, such as a ban on your insurance being terminated just because you get sick and had made an unintentional mistake on your forms.

If your current plan significantly reduces your benefits or increases your out-of-pocket spending above what it was when the new law was enacted, then your plan will lose its "grandfather" status and you will gain additional new benefits under the Act. In the individual market, people change plans more frequently than those insured through employer plans. As such, most of the 17 million people who purchase in the individual market will likely gain all the new protections in the Affordable Care Act in the near term.

Read below for more information on what new benefits apply to your current plan, what additional benefits apply if you choose a new plan or if your current plan forfeits its grandfather status, and what changes would cause your current plan to forfeit its grandfather status.

Q: How will the regulation help me keep my coverage if I don't want to choose a new private plan?

A: The regulation lets health plans that existed on March 23, 2010, when the Affordable Care Act became a law, to be "grandfathered" and thus be exempt from some of the new law's provisions. But the rule sets firm limits on how much your current coverage can be changed before it loses its grandfathered status. Compared to their policies in effect on March 23, 2010, grandfathered plans:

- Cannot significantly cut or reduce benefits – for example, if your plan covers care for people with diseases such as diabetes, cystic fibrosis or HIV/AIDS, the plan cannot eliminate coverage for those diseases;
- Cannot raise co-insurance charges – for example, it increases your share of a hospital bill from 20% to 25%;
- Cannot significantly raise co-payment charges – for example, it raises its copayment from $30 to $50 over the next 2 years;
- Cannot significantly raise deductibles – for example, it raises a $1,000 deductible by $500 over the next 2 years;

- Cannot significantly lower employer contributions by more than 5 percent – for example, it increases its workers' share of the premium from 15% to 25%;

- Cannot add or tighten an annual limit on what the insurer pays. Some insurers cap the amount that they will pay for covered services each year. If they want to retain their status as grandfathered plans, plans cannot tighten any annual dollar limit in place as of March 23, 2010. Moreover, plans that do not have an annual dollar limit cannot add a new one unless they are replacing a lifetime dollar limit with an annual dollar limit that is at least as high as the lifetime limit (which is more protective of high-cost enrollees).

Q: What new consumer protections will I get?

A: The Affordable Care Act requires all health plans – including grandfathered health plans – to provide certain new protections for plan years beginning on or after September 23, 2010. The reforms that apply to all individual market heath plans include:

- 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;

- Extension of parents' coverage to young adults under 26 years old;

Q: Will this new insurance regulation drive up my health insurance costs?

A: No. The grandfather rule is designed to preserve the ability of Americans to keep their current plan if they like it, while providing new benefits. Other provisions of the Affordable Care Act aim to make health insurance premiums more affordable. For example, the Act gives the Secretary of Health and Human Services the authority to publicly post on the Web the proportion of premium dollars that an insurer spends on medical care as opposed to marketing or profits. If an insurer spends too much on salaries and other expenses not directly related to care, it will have to give its customers a rebate. The new law also helps states monitor and crack down on unreasonable premium increases by insurers. The Administration recently announced a new grant program to strengthen states' ability to spot unreasonable premium increases and take action against them.

Q: Who will tell me whether or not my plan or coverage is grandfathered and what difference that makes?

A: The new rule requires your employer or insurer to provide you notice of its decision to remain a grandfathered plan. If you buy your own insurance, you should ask your insurer if your plan is grandfathered.

Q: What if I don't like my current coverage and want to change?

A: Nothing in the Affordable Care Act limits your choices. You are free to change plans and shop for what best meets your needs. In 2014, you will have even more affordable choices from Exchanges – competitive market places that will offer individuals and workers in small businesses much greater choice of plans at more affordable rates, the same choices as Members of Congress.

Q: What new benefits and protections will I receive if I choose a new plan?

In addition to the benefits required of all existing plans mentioned above, you will receive some new benefits if you choose a new plan, including:

- Coverage of recommended prevention services with no cost sharing; and

- Patient protections such as guaranteed access to OB-GYNs and pediatricians.

You may also benefit from more affordable choices from Exchanges – competitive market places that will be established in 2014 and will offer individuals and workers in small businesses much greater choice of plans at more affordable rates and the same choices as Members of Congress.

What the New Rule Means for Employers:

Q: What effect will the new rule have on employers who now provide their employees with health coverage?

A: Most of the 133 million Americans with employer-sponsored health insurance through large employers enjoy some of the benefits of the Affordable Care Act now, regardless of whether their plan is grandfathered. The reforms that apply to all heath plans beginning on or after September 23rd include:

- 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;
- Extension of parents' coverage to most young adults under 26 years old;

People who work in smaller firms – which change insurers more often due to annual fluctuations in premiums –will enjoy all of these benefits plus new benefits when they choose a new plan, including:

- Coverage of recommended prevention services with no cost sharing; and
- Patient protections such as guaranteed access to OB-GYNs and pediatricians.

These Americans also can benefit from more affordable choices from health insurance Exchanges – competitive market places that will be established in 2014 and will offer individuals and workers in small businesses much greater choice of plans at more affordable rates and the same choices as Members of Congress.

Q: Won't employer plans eventually lose their grandfathered status?

A: The "grandfather" rule which helps to implement the Affordable Care Act preserves the ability of the American people to keep their current plan if they like it, while providing new benefits, by minimizing market disruption and putting us on a glide path toward the competitive, patient-centered market of the future.

While the Act requires all health plans to provide important new benefits to consumers, it allows plans that existed on March 23, 2010 to innovate and contain costs by allowing insurers and employers to make routine changes without losing grandfather 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 "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 133 million Americans with employer-sponsored health insurance through large employers (100 or more workers) —who make up the vast majority of those with private health insurance today—will not see major changes to their coverage as a result of this regulation. The "grandfather" rule affirms that most of these plans will remain grandfathered – more than three-quarters of employers in 2011-- based on the decisions they made on benefits and costs over the last two years (2008-2009). Most of these plans already offer the patient protections applied to grandfathered plans such as no pre-existing condition exclusions. In addition, they are likely to already give their workers and families some of the additional protections in the Act, like a choice of OB-GYN and pediatrician and access to emergency rooms in other states without prior authorization.

Based on past patterns of behavior, however, it is expected that large employers will continue to make adjustments to the health plans they offer from year to year so that, by the time the health insurance Exchanges are established in 2014, fewer large employer plans will have grandfather status. However, the assumed market changes depend on the choices large employers make in the future.

People who work in smaller firms – which change insurers more often due to annual fluctuations in premiums – will enjoy all of the benefits of the Affordable Care Act when they choose a new plan. These Americans also will benefit from the new Health Insurance Exchanges that will be established in 2014 to offer individuals and workers in small businesses with much a greater choice of plans at more affordable rates – the same choices as members of Congress.

Q: Will grandfathering freeze employers' health plans in place, making it difficult for them to respond to rising health care costs and other changes?

A: No. Grandfathered plans will have the flexibility to make changes in order to remain active and vibrant just so long as they don't dramatically reduce people's benefits or increase their cost-sharing. Among other things, plans will be able to:

- Raise premiums to reasonably keep pace with health care costs;
- Make some changes in the benefits that they offer;
- Increase deductibles and other out-of-pocket costs within limits; and
- Continue to enroll new employees and new family members.

For more information on what changes will cause employers and insurance plans to lose their grandfather status, please visit http://www.healthreform.gov/newsroom/keeping_the_health_plan_you_have.html.

Q: Even with this flexibility, won't health reform drive up employers' coverage costs?

A: One of the major goals of the Affordable Care Act is to slow the growth of costs by making important changes to the nation's health insurance system. These changes will help consumers and employers regain control of their coverage and health costs. Through the "medical loss ratio" requirement, the Affordable Care Act will help ensure that insurance companies provide value for the premium dollars they charge. The law gives the Secretary of Health and Human Services authority to publicly post the proportion of premium dollars that an insurer spends on medical care as opposed to marketing or profits. If an insurer spends too much on non-medical expenses, it will be required to provide rebates. The new law also helps states monitor and crack down on unreasonable premium increases by insurers. It provides for grants to states to improve monitoring and regulation of premium increases by insurers.

Q: What does health insurance reform and the new rule do for small businesses?

A: Small business owners and entrepreneurs who buy their own insurance often pay the highest prices for coverage and suffer from the greatest limits on their benefits. Because of their relative lack of leverage, small businesses often make substantial changes in coverage from year to year, and therefore are expected to transition from their current grandfathered plans to ones with the Affordable Care Act's new protections over the next few years.

Health reform will immediately help small businesses sustain coverage for their workers, and provide them with affordable choices in the future. In 2010, small businesses may qualify for a tax credit to offset up to 35% of their premium contributions. In 2014, Exchanges will provide small employers and entrepreneurs with greater clout in the insurance market, tax credits up to

50% of their premiums, and stronger protections against objectionable insurance practices such pre-existing condition exclusions for their workers.

Q: Will the Act and the new rule mean more red tape for employers who provide their employees with health coverage?

A: No. Employers that already provide many of the benefits and protections provided for under the Affordable Care Act will experience relatively little change. The grandfather regulation provides illustrations to help guide employers' decisions. When employers tell employees about their health plans, employers who believe their health plans are grandfathered must include information about their status and maintain records needed to verify it. In addition, the regulation includes provisions to smooth the transition to the new system by letting the government take into account a "good faith effort" by employers to comply. It exempts retiree-only and "excepted benefit plans" like dental insurance.

Q: How does this policy affect plans that are negotiated by unions – collectively bargained arrangements?

A: Health plans subject to collective bargaining agreements are generally able to maintain their grandfathered status through the end of the agreement. The law and regulations also include a special rule for collectively bargained plans that gives additional flexibility to change insurers during the collective bargaining agreement in effect on the date that the Affordable Care Act was signed. After that, collective bargaining agreements are subject to the same rules as other health plans.

What the New Rule Means for Insurers

Q: Which insurance plans and policies are eligible for grandfather status and which are not?

A: Whether or not a plan or policy is considered the "same" as it was on March 23, 2010 depends on the changes that it makes from that point forward. 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 guaranteed access to OB-GYNs and pediatricians.

Under the Affordable Care Act, these requirements are applicable to all new plans, and existing plans that choose to make the following changes that would cause them to lose their grandfathered status. Compared to the coverage in effect on March 23, 2010, grandfathered plans:

- Cannot significantly cut or reduce benefits – for example, if your plan covers care for people with diabetes, cystic fibrosis or HIV/AIDS, it cannot drop coverage for those diseases;
- Cannot raise co-insurance charges – for example, it increases your share of a hospital bill from 20% to 25%;

- Cannot significantly raise co-payment charges – for example, it raises its copayment from $30 to $50 over the next 2 years;
- Cannot significantly raise deductibles – for example, it raises a $1,000 deductible by $500 over the next 2 years;
- Cannot significantly lower employer contributions by more than 5 percent – for example, it increases its workers' share of the premium from 15% to 25%;
- Cannot add or tighten an annual limit on what the insurer pays. Some insurers cap the amount that they will pay for covered services each year. If they want to retain their status as grandfathered plans, plans cannot tighten any annual dollar limit in place as of March 23, 2010. Moreover, plans that do not have an annual dollar limit cannot add a new one unless they are replacing a lifetime dollar limit with an annual dollar limit that is at least as high as the lifetime limit (which is more protective of high-cost enrollees).

Q: Is the grandfathering rule broad enough to protect against disruption, especially in the market for individual policies?

A: Yes. The Affordable Care Act, and the new grandfather rule that helps implement it, provide stability and flexibility to insurers and businesses that offer insurance coverage as the nation transitions to a more competitive marketplace in 2014 where businesses and consumers will have affordable choices through Exchanges.

An estimated half of employer-sponsored health plans that insure well over half of American workers and their families will remain grandfathered through 2013. Change is likely to come more swiftly in the individual market because up to two-thirds of individual policyholders switch coverage in a given year so that policies are likely to lose their grandfathered status and consumers will gain new protections more quickly. But this is a market that would experience rapid change even without the grandfathering regulation of health insurance reform.

Q: Who's going to enforce the new grandfather rule?

A: The Departments of Health and Human Services, Labor and Treasury have authority to enforce these provisions of the Affordable Care Act. The Federal government will work closely with the states, which have additional enforcement authority.

Q: The grandfather regulation says that that the government may issue still more rules on this subject. Will they be substantially different and tougher than these?

A: The rule is "interim final" regulation with a public comment period of 60 days. This means that while it has the effect of a final regulation, the Departments of the Treasury, Labor and HHS, which are issuing the rule, will examine the comments that we receive and make necessary changes when the regulation is issued in final form. Additional clarifications to address issues that may arise under these regulations could also be published by the Departments in an on-going manner through administrative guidance other than in the form of a regulation. The grandfather rule does state that any changes that are made after it is published will only apply prospectively.

Why Change Health Plans at All?

Q: Why do we need to change? Why can't we leave health care and health insurance the way they are?

A: People have grown increasingly frustrated by a lack of control over their own health care insurance. During the past decade, the cost of coverage has climbed more than three times faster than the average hourly wages of Americans. The Affordable Care Act makes important changes to our health insurance system to put patients back in charge of their coverage. In 2019, health spending per insured person is estimated to be about $16,800 without reform.

With reform, that number decreases about 10% to a little over $15,000. The grandfather rule is designed to strike a balance between allowing existing health plans to make routine changes and preventing plans from making such large changes that they are no longer the plans people once had and liked. As such, they will ease the transition that the nation's health care and health insurance industries must make to comply with the reforms of the Affordable Care Act.

Read the Press Release at: http://www.hhs.gov/news/press/2010pres/06/20100614c.html.

Read the Fact Sheet on this subject at:
http://healthreform.gov/newsroom/keeping_the_health_plan_you_have.html