

Frequently Asked Questions
Health Care reform
Grandfathered plans
As of June 29, 2010

What does it mean for a plan to be grandfathered?

- “Grandfathered plans” are individual or employer-sponsored coverage, fully insured or self-funded, including collectively bargained plans, in which an individual was enrolled on March 23, 2010, when the bill was signed. Grandfathered plans are exempt from some provisions of health care reform.
- Grandfathering applies separately to each benefit package. For example, if a plan offers three benefit options –options A, B, and C – and changes are made to option C that would cause it to lose its grandfather status, options A and B will continue to be eligible for grandfather status.
- Generally, all collectively bargained plans must comply with the same health care reform provisions applicable to other grandfathered plans. The major exception is that insured plans governed by a collective bargaining agreement ratified prior to March 23, 2010 can make changes to their benefits and/or cost sharing and not immediately lose grandfathering. The loss of grandfathering is, instead, postponed until the end of the current collective bargaining agreement. For example, a collectively bargained, insured plan can increase co-insurance and remain grandfathered until the end of the collective bargaining agreement. By way of contrast, however, self-insured plans governed by a collective bargaining agreement ratified prior to March 23, 2010 that increase co-insurance will immediately lose grandfathering.

Who is not grandfathered?

- Policies sold in the group or individual markets to new entities or individuals after March 23, 2010, are not grandfathered plans even if the *products* were offered in the group or individual markets before March 23, 2010.
- The individual and group market provisions of Health Care Reform do not apply to retiree-only, non-federal employer-sponsored plans or to excepted benefits such as dental-only and vision-only plans.

What would cause a loss of grandfathered status?

The following actions result in loss of grandfathered status:

- Change in insurance carrier, policy, certificate or contract (not a change in third party administrator);
- Elimination of all benefits to diagnose or treat a particular condition (for example, removing self-injectable drugs);
- Any increase in coinsurance;
- Increase in deductibles or copayments subject to the applicable cost-adjustment test established by the federal government;
- Change in funding status from self funded to fully insured;
- A decrease in employer contribution of more than 5%.

What changes *will not* result in a loss of grandfathered status?

The following changes will not result in a loss of grandfathered status:

- Changes to premium (as long as there is not a more than 5% reduction in the percentage of the employer contribution);
- Changes to increase benefits, or voluntarily comply with provisions of federal and state law as long as changes comply with the applicable grandfathering restrictions;
- Changes to a provider network (please note that the federal government has indicated there may be future restrictions here);
- Generally, changes to a prescription drug formulary unless the changes act to eliminate a benefit (please note that the federal government has indicated there may be future restrictions here);
- Generally, changes to accommodate mergers and acquisitions;
- Changes to a plan's third party administrator as long as the benefits continue to satisfy grandfathering;
- Changing funding status from insured to self-funded as long as the benefits continue to satisfy grandfathering;

- Enrolling new hires, newly eligible employees, and family members;
- A self-funded customer switching from their current TPA administrator to an IBC cost-plus program as long as the new benefits do not otherwise violate grandfathering restrictions.

Grandfathered plans are exempt from the following provisions of health care reform:

- No cost-sharing requirements for preventive care;
- Nondiscrimination testing of insured plans;
- Establishing a pediatrician as a PCP (IBC already complies with this provision);
- No referrals for OB/GYN services (IBC already complies with this provision);
- Internal appeals and an external review procedure (IBC already complies with this provision for certain plans); Emergency services without preauthorization treated as in-network benefits (IBC already complies with this provision).

What provisions of the Patient Protection and Affordable Care Act apply to all plans?

The law requires all plans regardless of their grandfathered status to comply with the following provisions beginning on or after September 23, 2010:

- No lifetime or annual dollar limits on coverage of essential benefits for all plans;
- No rescissions of coverage except in cases of fraud or intentional misrepresentation of material facts;
- Extension of parents' coverage to young adults under 26 years old;
- No coverage exclusions for children under 19 with pre-existing conditions.

How will I know if my plan is grandfathered?

The federal government requires employers or insurers to provide notice of their decision to remain a grandfathered plan to their members. People who buy individual insurance should ask their insurer if their plan is grandfathered.

Does a premium increase change a plan's grandfathering status?

Premium changes are not taken into account when determining whether or not a plan is grandfathered.

What is the benefit of grandfathering to my customer?

- Group can avoid the cost of preventive benefits; we estimate a .5% premium impact;
- Group can avoid some Health and Human Services Reporting requirements;
- Group can avoid the appeals process (IBC already complies with this provision for certain plans);
- Group can maintain a discriminatory insured plan (for example, a richer plan design for the owner of organization or for highly paid employees than available for other employees);
- Group can avoid offering a benefit design that enables members to utilize an OB/GYN or pediatrician as a PCP (IBC already complies with this provision);
- Groups can maintain offering a benefit design that requires precertification or requires increased cost sharing for emergency services (IBC already complies with the precert provision).

Many groups will lose grandfathering over time by:

- Changing insurance carrier, policy, certificate or contract;
- Making changes in benefit design if the changes do not comply with the applicable cost-adjustment tests established by the federal government;
- Decreasing an employer's contribution by more than 5%.