

LEGAL UPDATE

Proposed Rule Would Relax Limits on Some Grandfathered Plans

On July 10, 2020, the Departments of Labor (DOL), Health and Human Services (HHS) and the Treasury (Departments) issued a [proposed rule](#) that would provide greater flexibility for grandfathered group health plans to make changes to certain cost-sharing requirements without losing grandfather status. At the same time, the Departments issued [FAQs](#) regarding the proposed rule. The proposed rule would not allow non-grandfathered plans to become grandfathered or to regain grandfather status, and also would not impact grandfathered individual health coverage.

The Proposed Rule

The proposed rule would amend current rules to allow some grandfathered group health plans to make certain cost-sharing changes without causing a loss of grandfather status, as follows:

- First, it would allow grandfathered group health plans that are high-deductible health plans (HDHPs) to make changes to certain fixed-amount cost-sharing requirements without causing a loss of grandfather status. These changes would be allowed only to the extent necessary for compliance with the minimum cost-sharing requirements for HDHPs.
- Second, it would provide an alternative method of determining the “maximum percentage increase,” based on the premium adjustment percentage instead of the Consumer Price Index.

These amendments would apply to changes that are effective on or after the effective date of a final rule. According to the Departments, the proposals would enable these grandfathered plans to continue offering affordable coverage while also enhancing their ability to respond to rising health care costs. The proposals would also ensure that the plans are able to comply with minimum cost-sharing requirements for HDHPs so that enrollees remain eligible to contribute to health savings accounts (HSAs).

Highlights

- A grandfathered plan is a group health plan that existed on March 23, 2010 (the date the ACA was enacted) and has not had certain prohibited changes made to it.
- If a plan is grandfathered, it is exempt from certain ACA requirements.
- The ACA specifies permitted and prohibited changes for grandfathered plans.

The proposed rule would allow certain grandfathered group health plans to make limited cost-sharing changes without losing grandfather status.

Provided to you by **Cowden Associates, Inc.**

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