



Health Care Reform Update



IMPORTANT NOTICE REGARDING HEALTHCARE REFORM **Update #112** **July 2020**

Proposed Regulations Would Increase Flexibility for Grandfathered Health Plans

The DOL, IRS, and HHS have issued proposed regulations increasing flexibility for grandfathered health plans. Grandfathered plans are group health plans that have continuously provided coverage since March 23, 2010 and have not undergone certain prohibited design changes since then. Grandfathered status can be maintained indefinitely so long as the arrangement continues to cover at least one person, no prohibited design changes are made, and certain disclosure and recordkeeping requirements are met. The proposal follows a February 2019 Request for Information (RFI) that sought input on actions that would enable grandfathered plans to preserve their status. The proposal would modify current regulations that permit grandfathered plans to increase fixed-amount cost-sharing provisions (e.g., copayments, deductibles, and out-of-pocket maximums) so long as certain thresholds are not exceeded, determined using a Consumer Price Index medical inflation measure (medical CPI-U).

High Deductible Health Plans (HDHPs): Grandfathered HDHPs would be permitted to increase their fixed-amount cost-sharing without losing grandfathered status, if the increase is necessary to maintain HDHP status. Although the annual cost-of-living adjustment to the required minimum HDHP deductible has not yet exceeded the threshold that would cause loss of grandfathered status, the agencies believe there is value in assuring grandfathered HDHPs that they will be able to increase their cost-sharing to meet a future minimum deductible adjustment without losing grandfathered status.

Alternative Inflation Adjustment: The proposal would permit cost-sharing increases determined, in part, by reference to the greater of the medical CPI-U or the most recently published annual premium adjustment percentage, which is used to set the rate of increase for certain ACA parameters. Because the agencies anticipate that the premium adjustment percentage index will continue to grow faster than the medical CPI-U, they believe that the proposed alternative method would give grandfathered plans the flexibility to make cost-sharing changes that would otherwise result in a loss of grandfathered status. They also view the premium adjustment percentage as the best existing measure of underlying cost increases for grandfathered group health plans.

The proposal includes updated statistics on grandfathered plans: In 2019, approximately 22% of employers that offered health benefits offered at least one grandfathered group health plan (down from 72% in 2011), and 13% of workers with employer-sponsored coverage were enrolled in a grandfathered group health plan in 2019 (down from 56% in 2011).

Links For additional information: [Proposed Regulations](#) [FAQs](#) [News Release](#)

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