



## **Health Care Reform – Special Edition**

### **Health Care Reform: Interim Final Rule, “Protecting Young Adults”**

#### **LEGISLATIVE BRIEF**

**May 14, 2010**

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This memorandum is the sixth installment in our effort to address the critical and imminent changes brought about by the Patient Protection and Affordable Care Act ([H.R. 3590](#); Reform Bill) and the Health Care and Education and Affordability Reconciliation Act ([H.R. 4872](#); Reconciliation Bill), collectively referred to as the Health Care Reform Bills.

#### **Interim Final Rule**

On Monday April 10, 2010, the Department of Labor (DOL) and the Department of Health and Human Services released Interim Final Rules for group health plans and health insurance issuers relating to dependent coverage of children to age 26. Although it seems like we only talk about “age 26” issues, this new rule helps clarify the essential elements of the Age 26 law. Here is a summary of the key elements of the new rule.

#### **Definition of Dependent**

Dependents for purposes of the age 26 extension are:

- Not required to live at home;
- Not required to be a dependent on the employee’s tax return; and,
- Not required to be a student.
- Merely to be a child of the participant

Additionally, the new rule applies to married and unmarried children. Between now and January 1, 2014, for purposes of grandfathered plans only, adult children will not be eligible for coverage if they have access to an employer-provided health plan.

## **Contributions**

The employer must charge the same premium contribution for adult children as it does for other dependents.

## **Access to Coverage**

As you know, most health insurance issuers are offering to cover adult children to age 26, as of June 1, 2010, which is prior to the actual compliance date. Plans must comply, whether grandfathered or not, no later than the first day of the plan year beginning on or after September 23, 2010.

- Currently on the plan. Issuers will continue coverage automatically for adult children currently covered by a health plan, but who might otherwise have lost eligibility due to age or loss of student status (aged out) during the current plan year, unless they employer opts out.
- Dependents who have already aged out. Issuers will provide coverage to those adult children who have aged out previously and who are currently under age 26. Coverage will begin at the time of an open enrollment, whether through a special open enrollment period or at annual open enrollment prior to the plan year beginning before September 23, 2010.

## **Notice Requirements**

The Rule requires that either the issuer or the plan sponsor must provide notice of the availability of coverage to all plan participants (primary subscribers for purposes of individual plans). Plan sponsors may include the notice in the open enrollment materials, as long as the statement is prominent. We may or may not see a DOL model notice.

## **Additional Commentary**

- Individual Policies. According to the Interim Final Rule, this extension of coverage also applies to individual health policies where the primary subscriber has dependent coverage available.
- Eligibility. The criteria that issuers may use for determining eligibility are limited to the relationship between child and the plan participant. Premiums cannot vary based on age or residency or pre-existing conditions.

## **Next Steps**

1. You can view the Interim Final Rule at <http://www.dol.gov/ebsa/pdf/dependentcoverage.pdf>.
2. Determine what steps you need to take based on the availability and terms provided under your current insurance carrier's options and your plan year.
3. Consult with your benefits professional as needed.

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