



Benefit Trends

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Health Care Reform – Special Edition

Health Care Reform: Employee Communications Requirements

LEGISLATIVE BRIEF

July 9, 2010

As employers/plan sponsors approach the first major set of Health Reform mandates (effective for plan years beginning on or after September 23, 2010) they not only must decide whether to keep their plans' grandfather exemption but also must meet communication requirements regardless of their decisions. The purpose of this Memorandum is to summarize these new communications obligations.

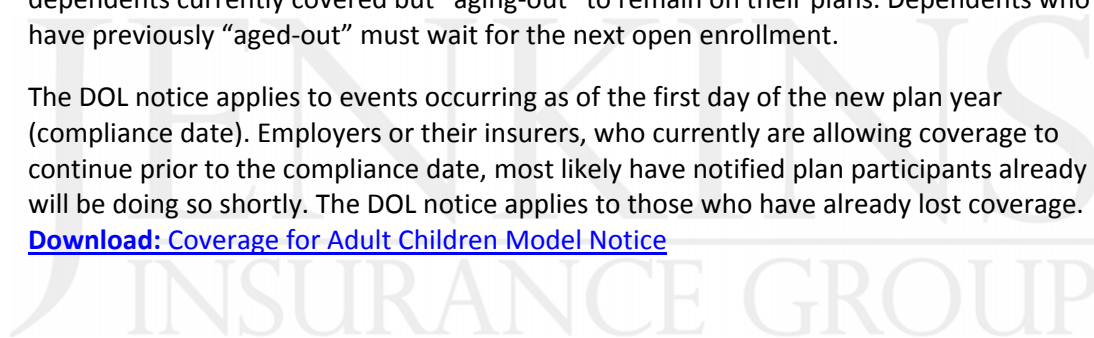
New Notices

The Department of Labor (DOL) has released a variety of new notices in conjunction with the issuance of Interim Final Rules over the last 45 days. The following notices require the immediate attention of plan sponsors and/or their insurers.

1. **Dependent Coverage for Children under Age 26.** As you know, insured and self-insured group health plans must make coverage available to adult children who may or who have termed out of the group health plan based on age limits or schooling requirements (aged-out). Children who will or who have lost health care coverage must have the opportunity to continue coverage up to age 26. Although the rule takes effect as of the first day of the plan year beginning on or after September 23, 2010, insurers, almost universally are allowing dependents currently covered but "aging-out" to remain on their plans. Dependents who have previously "aged-out" must wait for the next open enrollment.

The DOL notice applies to events occurring as of the first day of the new plan year (compliance date). Employers or their insurers, who currently are allowing coverage to continue prior to the compliance date, most likely have notified plan participants already or will be doing so shortly. The DOL notice applies to those who have already lost coverage.

[Download: Coverage for Adult Children Model Notice](#)



2. **Lifetime Limits.** The law will ban lifetime limits as of the first day of the new plan year beginning on or after September 23, 2010. The DOL notice clarifies the effective date of the ban and refers the plan participant to the plan sponsor (in the case of a self-insured plan) or to the insurer in the case of an insured plan, with any questions. Plan sponsors or insurers must provide the notice no later than the first day of the new plan year.

[Download: Lifetime Limits Model Notice](#)

3. **Patient Protections.** Plans must also provide notice to plan participants about choosing a primary care physician and the ability to obtain obstetrical/gynecological services without prior authorization. Plans become subject to this requirement as of the first day of the new plan year beginning on or after September 23, 2010.

[Download: Patient Protection Model Notice](#)

4. **Grandfathered Status.** For those plans which intend to maintain their grandfathered status, the Interim Final Rules applicable to grandfathering require a written notice to that effect which must be provided with all benefit materials distributed to plan participants and those eligible to participate, using the model rule provided in the guidance.

[Download: Grandfathered Health Plans Model Notice](#)

5. **Other Notices.** Health Reform Law also requires a 30 day notice in the event of a rescission of coverage for fraud or intentional misrepresentation, as well as notices involving cessation of coverage for over-the-counter medicines (January 1, 2011), and benefit changes such as inclusion of coverage for expanded preventive care services (summary of material modifications) etc. It also calls for new disclosures by insurers on their claims payment policies and other administrative practices, the extent of which will be subject to HHS guidelines yet to be published.

Methods of Delivery

Insurers or plan sponsors may provide notice of expanded coverage for dependents and the removal of lifetime benefits in the relevant open enrollment materials, but no later than the first day of the applicable plan year. On the other hand, the Summary Plan Description must contain the notice regarding patient protections. Plan sponsors claiming grandfathered status must attach its notice to all benefit materials distributed to participants or potential participants.

It is also important to note that delivery of the notices to the employee is sufficient. The law and regulations do not require separate notices to dependents. For the most part, either insurers or sponsors must provide these notices no later than the first day of the plan year beginning on or after September 23, 2010, and with the exception of the “grandfathered” status notice, insurers or plan sponsors must provide the notices whether the plan is grandfathered or not.

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