



Interim Final Regulations: Grandfathered Status

- Grandfathered health plans must comply with the prohibition on rescissions of coverage except in the case of fraud or intentional misrepresentation and the elimination of lifetime limits (both of which apply for plan years, or in the individual market, policy years, beginning on or after September 23, 2010).
- If an employer or employee organization enters into a new policy, certificate, or contract of insurance after March 23, 2010 (because, for example, any previous policy, certificate, or contract of insurance is not being renewed), then that policy, certificate, or contract of insurance is not a grandfathered health plan with respect to the individuals in the group health plan.
 - Any policies sold in the group and individual health insurance markets to new entities or individuals after March 23, 2010 will not be grandfathered health plans even if the health insurance products sold to those subscribers were offered in the group or individual market before March 23, 2010.
- Grandfathered health plans will be able to make routine changes to their policies and maintain their status.
- Routine changes include:
 - Cost adjustments to keep pace with medical inflation.
 - Adding new benefits.
 - Making modest adjustments to existing benefits.
 - Voluntarily adopting new consumer protections under the new law.
 - Making changes to comply with State or other Federal laws.
- Retiree-only and “accepted health plans” such as dental plans, long-term care insurance, Medigap, are exempt from the Affordable Care Act insurance reforms.

Fully Insured plans:

- Those plans subject to collective bargaining agreements will be able to maintain their grandfathered status until their agreement terminates.
- After the agreement terminates, they are subject to the same rules as other health plans, meaning, they will lose their grandfathered status if they make any of the substantial changes described below.

Plans will lose their grandfathered status if they choose to make significant changes that reduce benefits or increase costs to consumers. Under the Affordable Care Act, these requirements are applicable to all new plans, and existing plans that choose to make the following changes that would cause them to lose grandfathered status.

Grandfathered Plans:

- **Cannot significantly cut or reduce benefits.**
 - The elimination of all or substantially all benefits to diagnose or treat a particular condition causes a plan or health insurance coverage to cease to be a grandfathered health plan.
- **Cannot raise co-insurance charges.**
- **Cannot significantly raise co-payment charges.**
 - Grandfathered plans will be able to increase co-pays by no more than the greater of \$5 (adjusted annually for medical inflation) or a percentage equal to medical inflation plus 15 percentage points.
- **Cannot significantly raise deductibles.**
 - Grandfathered plans can only increase deductibles by a percentage equal to medical inflation plus 15 percentage points.
- **Cannot significantly lower employer contributions.**
 - Grandfathered plans cannot decrease the percent of premiums the employer pays by more than 5 percentage points.
- **Cannot add or tighten an annual limit on what the insurer pays.**
 - Grandfathered plans cannot tighten any annual dollar limit that was in place as of March 23, 2010. Moreover, plans that do not have an annual dollar limit cannot add a new one unless they are replacing a lifetime dollar limit with an annual dollar limit that is at least as high as the lifetime limit.
- **Cannot change insurance companies.**
 - If an employer decides to buy insurance for its workers from a different insurance company, this new insurer will not be considered a grandfathered plan. This does not apply when employers provide their own insurance to their workers switch plan administrators or to collective bargaining agreements.

Note: Medical inflation is defined in these interim final regulations by reference to the overall medical care component of the Consumer Price Index for All Urban Consumers, unadjusted (CPI), published by the Department of Labor.

Protecting against abuse of grandfathered health plan status:

- Requires a plan to disclose to consumers every time it distributes materials whether the plan believes that it is a grandfathered plan and is not subject to some of the additional consumer protections of the Affordable Care Act.
- The plan must also provide contact information for enrollees to have their questions and complaints addressed.
- A plan or issuer must also maintain records documenting the terms of the plan or health insurance coverage that were in effect on March 23, 2010, and any other documents necessary to verify, explain, or clarify its status as a grandfathered health plan.
 - Such documents could include intervening and current plan documents, health insurance policies, certificates or contracts of insurance, summary plan descriptions, documentation of premiums or the cost of coverage, and documentation of required employee contribution rates.
 - In addition, the plan or issuer must make such records available for examination. Accordingly, a participant, beneficiary, individual policy subscriber, or State or Federal agency official would be able to inspect such documents to verify the status of the plan or health insurance coverage as a grandfathered health plan.
 - The plan or issuer must maintain such records and make them available for examination for as long as the plan or issuer takes the position that the plan or health insurance coverage is a grandfathered health plan.
- Revoking a plan's grandfathered status if it forces consumers to switch to another grandfathered plan that, compared to the current plan, has less benefits or higher cost sharing as a means of avoiding new consumer protections.
- Revoking a plan's grandfathered status if it is bought by or merges with another plan simply to avoid complying with the law.

Choices in 2014 and subsequent years:

- In 2014, small businesses and individuals who purchase insurance on their own will gain access to the competitive market Exchanges.
- Exchanges will offer individuals and workers in small businesses with a much greater choice of plans at more affordable rates.
- Reduced premiums do not take into account the tax credits available to small businesses and middle-class families to help make insurance affordable. The additional new choices may further the likelihood that small businesses workers will remain in grandfathered health plans.