



Affordable Care Act: New Regulations Permit Change in Insurers

The Internal Revenue Service, the Department of Labor's Employee Benefits Security Administration, and the Office of Consumer Information and Insurance Oversight in the Department of Health and Human Services have issued new rules that permit group health plans to change insurers and keep their "grandfathered" status. In June, the departments issued an interim final rule which provided that a group health plan would lose its grandfathered status if the plan changed issuers. The new regulations are an amendment to the interim final rule.

Under the new rules, a plan will not cease to be grandfathered because it enters into a new policy, certificate, or contract of insurance after March 23, 2010—the date of enactment of the Patient Protection and Affordable Care Act. However, in order to maintain grandfathered status, the plan must provide the insurer with documentation of plan terms (including benefits, cost sharing, employer contributions, and annual limits) under the prior coverage sufficient to determine whether the plan's grandfathered status would be affected by any changes. That is, the terms of the new insurance cannot make changes that would otherwise not be permitted under the grandfathering rules (for example, increasing coinsurance). The new rule also notes that a self-insured plan will lose its grandfathered status if it becomes insured after March 23, 2010, under a new policy, certificate, or contract of insurance. The self-insured plan would not lose its grandfathered status if it changes its third-party administrator.

If you have any questions about the change in the requirements, please contact David Joffe or one of the other attorneys in the Employee Benefits & Executive Compensation Group at Bradley Arant Boult Cummings LLP.

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