Immediate Insurance Market Reforms under Federal Health Care Bill

(as of March 26, 2010)

This chart highlights the individual and small group comprehensive, major medical insurance market reform provisions[1] contained in subtitle A of Title I of the *Patient Protection and Affordable Care Act* (H.R. 3590), as amended by the *Health Care and Education Reconciliation Act* (H.R. 4872). Unless otherwise noted, the reforms are effective for plan years that begin on or after 6 months after enactment.[2] The grandfather provisions were effective upon enactment. Please note that the list is not intended to be all inclusive of the new federal health care reform requirements and should not be relied upon as legal or compliance advice.

Topic	Summary of Provision	Grandfather Plans		Non-Grandfather Plans	
		Individual	*Small Group*	*Individual*	*Small Group*
Lifetime Limits	Prohibits lifetime dollar limits. Clarifies that nothing restricts the use of lifetime dollar limits for covered benefits that are not essential benefits.[3] [Section 2711 of H.R. 3590/Section 2301 of H.R. 4872]	**Yes.**	**Yes.**	**Yes.**	**Yes.**

[1] It is our understanding that the Congressional intent was to limit the application of these provisions to comprehensive, major medical insurance and not extend them to the products that are classified as "excepted benefits" under the Health Insurance Portability and Accountability Act (HIPAA).

[2] President Obama signed H.R. 3590 into law on Tuesday, March 23, 2010.

[3] The prohibition on lifetime limits is tied to the creation/designation of essential benefits. No specific timeframe is specified for the HHS Secretary to develop or identify the essential benefit package, but plans must comply by January 1, 2014.

Topic	Summary of Provision	Grandfather Plans		Non-Grandfather Plans	
		Individual	*Small Group*	*Individual*	*Small Group*
Annual Maximums	Prohibits annual dollar limits, except allows for "restricted" annual dollar limits for essential benefits[4] for plan years beginning prior to January 1, 2014. Also clarifies that nothing restricts the use of annual dollar limits for covered benefits that are not essential benefits.[5] [Section 2711 of H.R. 3590/Section 2301 of H.R. 4872]	No.	**Yes.**	**Yes.**	**Yes.**
Rescissions & Cancellations of Coverage	Prohibits rescissions, except for fraud or intentional misrepresentation of material fact. Requires prior notice to the enrollee for cancellations. [Section 2712 of H.R. 3590/Section 2301 of H.R. 4872]	**Yes.**	**Yes.**	**Yes.**	**Yes.**
Preventive Services	Prohibits the imposition of cost-sharing for the specified preventive services -- *e.g.*, 1) those that have a rating of A or B from the USPSTF; 2) immunizations recommended by the CDC; and 3) for infants, children and adolescents -- the care and screenings supported by HRSA. [Section 2713 of H.R. 3590]	No.	No.	**Yes.**	**Yes.**
Extension of	Requires insurance that provides coverage for dependent	**Yes.**	**Yes.**[6]	**Yes.**	**Yes.**

[4] The prohibition on lifetime limits is tied to the creation/designation of essential benefits. No specific timeframe is specified for the HHS Secretary to develop or identify the essential benefit package, but plans must comply by January 1, 2014.

[5] Ibid.

[6] Grandfathered small group coverage, for plan years beginning before January 1, 2014, must extend coverage to an adult child until such child turns 26 years of age only if such child is not eligible to enroll in an eligible employer-sponsored plan.

Topic	Summary of Provision	Grandfather Plans		Non-Grandfather Plans	
		Individual	*Small Group*	*Individual*	*Small Group*
Dependent Coverage	adult children to continue until such child turns 26 years of age. Clarifies that nothing requires coverage for the children of dependent children. [Section 2714 of H.R. 3590/Section 2301 of H.R. 4872]				
Uniform Coverage Documents & Standard Definitions	Requires adherence to standards (TBD by the HHS Secretary in accordance with specified guidelines) to compile and provide information to enrollees that accurately describes the benefits and coverage. Requires entities to provide the standardized summary to applicants, enrollees, policyholders and certificate holders within **24 months of enactment**. Applies this requirement to grandfathered plans for plan years beginning on or after the date of enactment. [Sections 2715 and 1251 of H.R. 3590]	**Yes.**	**Yes.**	**Yes.**	**Yes.**
Incurred Loss/Claims Reporting Requirements	Requires the submission to the HHS Secretary of a report of the ratio of the incurred loss (or incurred claims) plus the loss adjustment expense to earned premiums, with respect to each plan year. Provides that the report include the following categories: 1) clinical services provided to enrollees; 2) activities that improve quality; and 3) all other non-claims costs (excluding federal and state taxes and licensing or regulatory fees).	**Yes.**	**Yes.**	**Yes.**	**Yes.**

Topic	Summary of Provision	Grandfather Plans		Non-Grandfather Plans	
		Individual	*Small Group*	*Individual*	*Small Group*
	[Sections 2718 and 1251 of H.R. 3590]				
Loss Ratio Standards	Beginning on **January 1, 2011,** mandates that an annual rebate be provided to each enrollee if the ratio of the amount of premium revenue expended to the total amount of premium revenue is less than: • 85% for large group; • 80% for small group; and • 80% for individual. Allows the HHS Secretary to adjust the percentage for the individual market if she determines that the application of the 80% standard would destabilize the market. Also allows the Secretary to adjust the rates described above if she determines it is appropriate to do so, on account of the volatility of the individual market due to the establishment of State Exchanges. Permits states to establish higher percentages (for all three markets) by regulation. [Sections 2718 and 1251 of H.R. 3590]	**Yes.**	**Yes.**	**Yes.**	**Yes.**
Appeals Process	Requires the establishment of an internal claims appeal process and external review process. [Section 2719 of H.R. 3590]	No.	No.	**Yes.**	**Yes.**
Emergency Services	Requires plans that cover emergency services to provide such coverage without the need for prior authorization, regardless of the participating status of the provider, and	No.	No.	**Yes.**	**Yes.**

Topic	Summary of Provision	Grandfather Plans		Non-Grandfather Plans	
		Individual	*Small Group*	*Individual*	*Small Group*
	at the in-network cost-sharing level. [Section 2719A of H.R. 3590]				
Access to Pediatricians	Mandates that, if designation of a PCP for a child is required, the person be permitted to designate a physician who specializes in pediatrics as the child's PCP if the provider is in-network. [Section 2719A of H.R. 3590]	No.	No.	**Yes.**	**Yes.**
Access to OB/GYNs	Prohibits authorization or referral requirements for obstetrical or gynecological care provided by in-network providers who specialize in obstetrics or gynecology. [Section 2719A of H.R. 3590]	No.	No.	**Yes.**	**Yes.**
Prohibition on Preexisting Condition Exclusions for Kids	Prohibits the imposition of pre-existing condition exclusions for enrollees who are under 19 years of age.[7] [Sections 2704 and 1255 of H.R. 3590/Section 2301 of H.R. 4872]	No.	**Yes.**	**Yes.**	**Yes.**

[7] As of this writing, the Department of Health and Human Services has indicated that it intends to clarify the intent of this provision through regulation to require guarantee issue for enrollees who are under 19 years of age.