



Health Care Reform

LEGISLATIVE BRIEF

Brought to you by Ronstadt Insurance, Inc.

Pre-existing Condition Exclusions

The Affordable Care Act (ACA) amended the rules regarding pre-existing condition exclusions in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The HIPAA rules applied only to group health plans and group health insurance coverage, and permitted limited exclusions of coverage based on pre-existing conditions under certain circumstances.

However, the ACA rules prohibit any pre-existing condition from being imposed by group health plans or group health insurance coverage, and extend this protection to individual health insurance coverage. This prohibition generally is effective with respect to plan years beginning on or after **Jan. 1, 2014**. However, for enrollees who are under 19 years of age, this prohibition took effect for plan years beginning on or after **Sept. 23, 2010**.

On June 28, 2010, the Departments of the Treasury, Labor (DOL) and Health and Human Services (HHS) issued [interim final rules](#) related to the health care reform requirements for pre-existing condition exclusions.

PRE-EXISTING CONDITION EXCLUSION DEFINED

A pre-existing condition exclusion is a limitation or exclusion of benefits related to a condition based on the fact that the condition was present before the date of enrollment for the coverage, whether or not any medical advice, diagnosis, care or treatment was recommended or received before that date.

Based on this definition, the ACA prohibits both **exclusions of coverage of specific benefits** and **complete exclusions from a plan or coverage** based on a pre-existing condition.

However, the ACA's pre-existing condition exclusion rules do not change the HIPAA rule that an exclusion of benefits for a certain condition under a plan is not a pre-existing condition exclusion if the exclusion is not based on the date the condition arose. For example, if a group health plan generally provides coverage for medically necessary services, but excludes coverage for the treatment of cleft palate, the exclusion of coverage for treatment of cleft palate is not a pre-existing condition exclusion because it applies regardless of when the condition arose.

COVERED PLANS

The ACA's pre-existing condition exclusion rules apply to group health plans and group health insurance coverage including grandfathered group health plans. The rules also apply to individual health insurance coverage, although they do not apply to grandfathered individual policies.

Grandfathered plans are group health plans or health insurance coverage in which an individual was enrolled on **March 23, 2010**, the date that the ACA was passed. Grandfathered plans are *not* subject to certain provisions of the ACA, so long as they retain their grandfathered status. ACA states that a grandfathered plan will retain its grandfathered status even if covered individuals renew their coverage after March 23, 2010, family members are added to coverage or new employees (and their families) enroll for coverage. However, plans will lose their grandfathered status if they choose to make certain changes, such as **significantly cutting benefits** or **increasing out-of-pocket spending** for participants.



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EFFECTIVE DATES

The ACA's pre-existing condition rules generally apply for plan years beginning on or after **Jan. 1, 2014**. However, for enrollees who are under 19 years of age, the rules take effect for plan years beginning on or after **Sept. 23, 2010**.

This means that, for plan years beginning on or after Sept. 23, 2010, an enrollee under age 19 could not be denied benefits based on a pre-existing condition. Similarly, an individual under age 19 who is seeking enrollment in a plan may not be denied enrollment or specific benefits based on a pre-existing condition.

For individuals not under age 19, the HIPAA rules regarding pre-existing condition exclusions continue to apply until the new ACA rules take effect.

ACA'S PRE-EXISTING CONDITION INSURANCE PLAN (PCIP)

The ACA requires the establishment of a temporary high-risk health insurance pool to provide affordable health insurance coverage to uninsured individuals with pre-existing conditions. The ACA's high-risk health insurance pool is called the Pre-Existing Condition Insurance Plan (PCIP). The PCIP will continue until **Jan. 1, 2014**, when individuals will be able to purchase health coverage through the ACA's health insurance Exchanges.

HHS has announced that it will offer transitional coverage to those currently enrolled in the PCIP who have not yet secured other health insurance, from Jan. 1, 2014 **through March 31, 2014**. According to HHS, this transitional coverage will allow PCIP enrollees more time to review Exchange plan options and enroll in the coverage that best meets their needs before open enrollment closes in March.

More information on the PCIP is available at: www.pcip.gov.

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