

Broker Briefing

04/25/2011

FAQs about Affordable Care Act Implementation

Guidance in the form of Frequently Asked Questions has been provided by HHS, Department of Labor and the Treasury regarding implementation of the market reform provisions of the Affordable Care Act.

The FAQs released on April 1, 2011 are [available here](#). This BBNF highlights Questions 1 and 2.

Transferring Employees from One Grandfathered Plan to Another Due to a "Bona fide Employment-based Reason"
Interim Final Regulations (IFR) released in June, 2010 relating to status as a Grandfathered Plan, stated that adding new individuals to an existing grandfathered plan based on a "bona fide employment-based reason" did not cause a plan to relinquish grandfathered status.

The FAQs released this month offer new guidance and examples of what may constitute a "bona fide employment-based reason" to transfer employees from one grandfathered plan to another. Addition of new individuals to a grandfathered plan made due to the circumstances listed below will not cause loss of grandfathered status:

- 1) When a benefit package is being eliminated because the issuer is exiting the market.
- 2) When a benefit package is eliminated because the issuer no longer offers the product to the employer.
 - i. Employer no longer satisfies minimum participation
 - ii. Issuer discontinues plan to all employers
- 3) When low or declining participation by plan participants in a plan makes it impractical to continue to offer the plan; or,
- 4) When a benefit package is eliminated for any reason and multiple benefit packages covering a significant portion of other employees remain available to the employees being transferred.
- 5) When a benefit package is eliminated from a multiemployer plan and agreed upon as part of the collective bargaining process (union plans).

Changes in Rx Formulary

Changes in the tier placement of specific drugs within the formulary will not cause loss of grandfathered status. For example, if a preferred brand name drug currently on the RMHP formulary is moved to the non-preferred formulary tier due to the addition of a new, less expensive drug on the formulary at the lower tier, this would not cause loss of grandfathered status.

As always, if you have any questions, comments or need assistance,
please call your Rocky Mountain Health Plans Executive.

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