



Employer Contribution and Grandfathered Status

The Patient Protection and Affordable Care Act of 2010 (PPACA) considers group health plans that existed on the date of enactment (3/23/2010) to be “Grandfathered” plans. Grandfathered plans are exempt from complying with some provisions of the PPACA insurance reforms.

The grandfathered status of an employer’s group health plan can potentially be retained indefinitely. However, the regulations have identified certain changes, which if made to the plan, will result in a plan losing its grandfathered status. One of these changes is a reduction in the portion of the group health plan premium the employer contributes for employees and/or their dependents.

Specifically, the regulations state the following:

A group health plan or group health insurance coverage ceases to be a grandfathered health plan if the employer or employee organization decreases its contribution rate based on cost of coverage (as defined in paragraph (g)(3)(iii)(A) of this section) towards the cost of any tier of coverage for any class of similarly situated individuals (as described in §54.9802-1(d)) by more than 5 percentage points below the contribution rate for the coverage period that includes March 23, 2010.

The regulations also provide the following definition:

The term contribution rate based on cost of coverage means the amount of contributions made by an employer or employee organization compared to the total cost of coverage, expressed as a percentage. The total cost of coverage is determined in the same manner as the applicable premium is calculated under the COBRA continuation provisions of section 4980B(f)(4), section 604 of ERISA, and section 2204 of the PHS Act.

If retaining grandfathered status is important to you as an employer, it will be necessary for your company to assure that the percentage (%) paid by the employer is not reduced by more than 5 percentage points from the level of employer contribution in place on March 23, 2010. Additionally, the employer contribution percentage must be measured and maintained for any tier of coverage and for any class of similarly situated individuals.

Additional details and examples on changes to employer contribution and the impact on grandfathered status are on the following pages.

The information provided in this document is not intended to advise you on how to comply with any provisions of the referenced legislation or related legislation or regulations, nor is it otherwise intended to impart any legal advice. If you have any questions about how to comply with this or any other law or regulation, we recommend that you consult with your legal counsel.

Employer Contribution and Grandfathered Status – Additional Details

There are several key points in interpreting the regulation:

- The benchmark for determining the change in the employer contribution is the contribution that was in place as of 3/23/2010. This does not change for subsequent years, even if the employer contribution percentage (%) has been increased or decreased (within the allowable amount) subsequent to 3/23/2010.
- The regulation views the employer contribution as a percentage (%) of the cost of coverage, and not as dollar (\$) amount. Therefore, keeping the same dollar (\$) contribution over time may not be sufficient to maintain grandfathered status.
- The regulation specifies that the loss of grandfathered status will result from a sufficient reduction in the employer contribution towards any tier of coverage. As an example, a reduction in employer contribution towards family coverage from 80% to 74% (a six percentage point reduction) would result in a loss of grandfathered status even if the employer contribution towards single coverage were left unchanged or even increased.
- Grandfathered status will not be lost as a result of increasing the employer contribution percentage (%).
- The rules governing employer contribution and grandfathered status are independent of the minimum employer contribution requirement in your Blue Cross Blue Shield of Wyoming (BCBSWY) policy. You are still required to meet the minimum contribution requirement in your policy. However, this minimum will not maintain grandfathered status if it is more than a five (5) percentage point reduction from the contribution percentage in place at 3/23/2010.

PPACA requires that group health plan participants are provided clear and ongoing notifications that the group health plan is a grandfathered plan. There is the potential for significant financial penalties to the employer for inappropriately claiming grandfathered status.

In order to support the participant notification process, BCBSWY will require each employer with a grandfathered plan to certify on an ongoing basis that their contribution meets the standards required for maintaining grandfathered status.

For many employers, managing their employer contribution level in a manner sufficient to maintain grandfathered status will be relatively straightforward. However, some employers may have an established employer contribution methodology for which it is less clear how to maintain grandfathered status. We encourage these employers to contact their BCBSWY marketing representative to discuss their particular situation.

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The PPACA regulations allow a limited opportunity to revoke changes made to a group health plan since enactment (3/23/2010) that would result in a loss of grandfathered status. However, these changes must have been made prior to when the regulations on grandfathering were issued (6/14/2010).

At this time, there is no opportunity to revoke changes made after 6/14/2010, and the resulting loss of grandfathered status would be permanent.

We have included examples illustrating scenarios related to employer contribution and grandfathered status, which may help in understanding what is allowed by the regulation.

Please contact your BCBSWY marketing representative to discuss any questions you may have about your group health plan.

Employer Contribution and Grandfathered Status – Examples

Example 1 – Facts: As of 3/23/2010, the employer group health plan has a premium for Single coverage of \$500.00/Month, of which the employer contributes \$400.00/Month (80%). At renewal (after 9/23/2010), the rate is increased to \$550.00/Month, and the employer continues to contribute \$400.00/Month (72.7%).

Conclusion: Employer contribution was reduced by 7.3 percentage points. Therefore grandfathered status is lost due to a reduction in the employer contribution % of more than five (5) percentage points.

Example 2 – Facts: As of 3/23/2010, the employer group health has a premium for Single coverage of \$500.00/Month, of which the employer contributes \$400.00/Month (80%). At renewal (after 9/23/2010), the rate is increased to \$550.00/Month, and the employer increases the contribution to \$412.50/Month (75%).

Conclusion: Employer contribution was reduced by 5 percentage points. Therefore grandfathered status is retained. However, the contribution percentage cannot be lowered any further without resulting in the loss of grandfathered status.

Example 3 – Facts: As of 3/23/2010, the employer group health plan has a premium for Single coverage of \$500.00/Month, of which the employer contributes \$400.00/Month (80%). At renewal (after 9/23/2010), the rate is increased to \$550.00/Month, and the employer increases the contribution to \$450.00/Month (81.8%). The following year at renewal, the rate is increased to \$600.00/Month, and the employer continues to contribute \$450.00/Month (75%).

Conclusion: Employer contribution is initially raised and then reduced by 5 percentage points from the contribution percentage in place at 3/23/2010 (80% to 75%). Therefore grandfathered

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status is retained. The fact that the contribution is reduced by more than 5 percentage points at the last renewal (81.8% to 75%) does not impact the grandfathered status.

Example 4 – Facts: As of 3/23/2010, the employer group health plan has a premium for Single coverage of \$500.00/Month, of which the employer contributes \$400.00/Month (80%). At renewal (after 9/23/2010), the rate is increased to \$550.00/Month, and the employer increases the contribution to \$423.50/Month (77%). The following year at renewal, the rate is increased to \$600.00/Month, and the employer continues to contribute \$444.00/Month (74%).

Conclusion: Employer contribution was reduced by 6 percentage points from the contribution percentage in place at 3/23/2010 (80% to 74%). Therefore grandfathered status is lost. The fact that the contribution is reduced by less than 5 percentage points in any one year does not retain grandfathered status.

Example 5 – Facts: As of 3/23/2010, the employer group health plan has a premium for Single coverage of \$500.00/Month. The employer has a tiered contribution based on length of service with the company, and contributes \$350.00/Month (70%) for employees with fewer than 6 years of service, and \$400.00/Month (80%) for employees that have 6+ years of service. At renewal (after 9/23/2010), the rate is increased to \$550.00/Month, and the employer holds the contribution at \$350.00/Month (63.6%) for employees with under 6 years of service, and increases the contribution to \$440.00/Month for employees with 6+ years of service.

Conclusion: Employer contribution was reduced by 6.4 percentage points from the contribution percentage in place at 3/23/2010 (70% to 63.6%) for employees with fewer than 6 years of service. Therefore grandfathered status is lost. The fact that the contribution percentage is was not reduced for employees with 6+ years of service does not retain grandfathered status.