



## **Maintaining 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. The specifics of what is not allowed is a detailed matter that is currently being evaluated. However, generally, the following changes made to a plan after 3/23/2010 would result in a loss of grandfathered status:

- Changes to the program benefits to increase member responsibility, including:
  - Eliminating benefits to diagnose or treat a specific condition
  - Increasing coinsurance percentages
  - Increasing co-pays, deductible, and out of pocket maximums by more than a specified amount
  - Imposing an annual dollar maximum on benefits that is less than a previous lifetime dollar maximum
  - Reducing an annual dollar maximum, or imposing an new annual dollar maximum where there was none before
- Decreasing the percentage of the total premium the employer pays by more than a specified amount
- Inappropriately transferring employees into the plan (applies to mergers)

Additionally, there is currently discussion on how changes to the provider network and/or the plan formulary could potentially impact the grandfathered status of a plan.

The complete ramifications of maintaining or losing grandfathered status is unknown, and is still being established through the regulatory process. We believe that individual employer plans will be impacted differently. Some employers may benefit by maintaining grandfathered status, and others may benefit by giving up grandfathered status. However, since the full impact of the PPACA insurance reforms does not occur until 2014, it is very difficult to predict at this time what would be best for an individual employer’s plan.

The PPACA regulations allow a limited opportunity to revoke changes to a group health plan made 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.

Due to the permanent loss of grandfathered status, and the uncertainty of how an employer plan will ultimately be impacted, changes that result in loss of grandfathered status should be given careful consideration prior to implementation.

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

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.