



## Employer-Provided Health Coverage for Adult Children

On May 10, 2010, the Department of Health & Human Services ("HHS"), in conjunction with the Department of Labor and the Treasury Department, issued interim final regulations implementing the requirement to expand health insurance coverage to adult children up to age 26. The regulations, which provide guidance under the Patient Protection and Affordable Care Act of 2010 and the Health Care and Education Reconciliation Act of 2010 (the "Health Care Reform Act") (see our Client Alert 10-067, "[The Patient Protection and Affordable Care Act](#)"), and the coverage requirement, become effective for plan years beginning on or after September 23, 2010 (*i.e.*, January 1, 2011 for calendar year plans).

**Definition of Dependent.** The regulations do not provide a definition of dependent, but require group health plans to define dependent for these purposes in terms of the relationship between the child and the employee, and limit the definition to an employee's adult child who has not attained age 26 ("Health Care Dependent"). The regulations, however, do provide that definitions of dependent may not be based on residency, financial dependence or student status, and that coverage for a grandchild or the spouse of a child is not required. Confirmation of a child's age is to be based upon the employee's representation as to the child's date of birth.

**Identical Treatment.** The regulations require group health plans to offer Health Care Dependents the same plan or health insurance coverage, regardless of age. As a result of this requirement, a plan cannot impose a premium surcharge for children older than age 18, nor can a plan limit coverage options for children who are older than age 18.

**Transition Rules for Dependents Reaching End of Eligibility Threshold.** Transition relief is now offered to any Health Care Dependent whose coverage ended or was denied, and who will be eligible for coverage on the first day of the first plan year beginning on or after September 23, 2010 as a result of the Health Care Reform Act.

- **Opportunity to Enroll.** Employers must offer employees an opportunity to enroll newly eligible Health Care Dependents in employer-provided health coverage during a 30-day window. Employers must provide employees with notice of this enrollment opportunity by the first day of the plan year beginning on or after September 23, 2010 (generally, January 1, 2011). The notice may be provided with other enrollment materials as long as the notice is prominent.
- **Mandatory Effective Date with an Option to Begin Coverage Earlier.** Although employers may permit employees to enroll their newly eligible Health Care Dependents on or after March 30, 2010, coverage for these newly eligible adult children must be effective no later than the first day of the first plan year beginning on or after September 23, 2010.

**Grandfathered Group Health Plans.** Until January 1, 2014, grandfathered group health plans (see our Client Alert 10-075, "[Application of Health Care and Health Insurance Market Reforms to Grandfathered Plans](#)") may exclude an adult child who has not attained age 26 if the adult child is eligible to enroll in an eligible employer-sponsored health plan other than the group health plan of a parent.

\* \* \* \* \*

We recommend that plans and procedures be reviewed for compliance with these changes. Although plan amendments may be effective retroactively to as early as March 30, 2010, amendments for a calendar year plan must be executed no later than December 31, 2010. If you have any questions, please contact one of the members of Reed Smith's Health & Welfare and Employee Benefits team listed below, or your Reed Smith attorney.

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