



Legal Alert: Agencies Issue Interim Final Rules Concerning Dependent Coverage

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On May 10, 2010, the Employee Benefits Security Administration ("EBSA") of the Department of Labor, along with the Departments of the Treasury and Health and Human Services released Interim Final Rules implementing the extension of dependent coverage for children up to age 26, as required by the Patient Protection and Affordable Care Act ("PPACA" or "health care reform"). The EBSA also released a Fact Sheet and Frequently Asked Questions ("FAQs") that describe the extension of dependent coverage. The Interim Final Rules can be viewed at the following website:

<http://www.dol.gov/ebsa/pdf/dependentcoverage.pdf>. The EBSA's Fact Sheet is available at:

<http://www.dol.gov/ebsa/newsroom/fsdependentcoverage.html>, and the FAQs are available at:

<http://www.dol.gov/ebsa/faqs/faq-dependentcoverage.html>. **Eligibility** Under the PPACA, all plans and insurance issuers that offer dependent coverage must offer coverage to a participant's adult children, regardless of whether those adult children are married or unmarried, until the child reaches age 26.^[1] The plan or insurance issuer must offer this dependent coverage even if the adult child no longer lives with the parent, cannot be claimed as a dependent on a parent's tax return, or is no longer a student. This extended dependent coverage does not, however, apply to a spouse or children of the adult child. **Effective Dates For Extended Dependent Coverage**^[2]

Generally, this expansion of dependent coverage is effective for plan or policy years beginning on or after September 23, 2010. Plans and policies that use the calendar year as the plan or policy year will have to comply on or before January 1, 2011. There is one important exception to this general rule, however. Under a transition rule, plans and insurance issuers will not have to provide extended dependent coverage to an adult child until 2014 if the adult child has available employer-based coverage other than a parent's coverage. **Special Enrollment Period For Qualifying Adult Children** Plans and insurance issuers with plan or policy years beginning on or after September 23, 2010, are required to provide adult children who qualify for this coverage a special enrollment period that continues for at least 30 days, regardless of whether the plan offers a periodic open enrollment period. Plans and insurance issuers must provide a written notice of this special enrollment period no later than the first day of the first plan or policy year beginning on or after September 23, 2010.

[1] There is nothing in the PPACA that requires plans or insurance issuers to offer dependent coverage. If a plan offers such coverage, however, it must comply with these provisions of the PPACA.

[2] HHS Secretary, Kathleen Sebelius, asked leading insurance companies

to begin covering adult dependent children voluntarily before the January 1, 2011 effective date. According to the DOL website, over 65 companies have agreed to cover adult dependent children who graduate from school or age off of their parent's coverage before January 1, 2011, including Aetna, Blue Shield of California, CIGNA, Kaiser and Wellpoint.