



Employer Services Advisory

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New Rule: Switching Insurers Won't Destroy Your Plan's Grandfathered Status

This is the tenth in a series of alerts intended to help guide employers and plan sponsors through their new obligations under the recently-enacted health care reform laws and related guidance.

Many employers have found themselves unable to preserve their group health plan's grandfathered status when their insurer has changed, even when it was through no fault of their own. (**See our July 1, 2010 client alert on grandfathered plan status**)

Yesterday, the Department of Health and Human Services (HHS) expanded the permissible modifications that may be made to grandfathered group health plans to include a change of group insurers. Thus, a group health plan can change its group insurer, so long as the overall structure does not otherwise violate the grandfather rules. This change was made at the urging of the U.S. Chamber of Commerce and other organizations and reflects a desire to allow employers the ability to shop for less expensive coverage, thus potentially driving down health care costs.

Unfortunately, for many calendar year plans, it may be too late to take advantage of this expanded exemption for the upcoming 2011 plan year. Most calendar year plans have already negotiated the changes to their insurance policies for 2011 and distributed information to their workers about 2011 benefits. There may, however, be some non-calendar year plans who can still take advantage of this expansion for their plan years beginning in 2011. In addition, calendar year plans that kept the same insurer and otherwise maintained their grandfathered status for 2011 will have more choices when they enter the planning stages for their 2012 plan year.

The new exemption took effect on November 15, 2010 and applies to any change of insurer becoming effective on or after that date (e.g. if you

executed an insurance contract with a new insurer on October 2010, with an effective date of January 1, 2011, it would be exempt). However, any change of insurers that took effect prior to November 15, 2010, will not be exempt.

With a team of attorneys who are highly experienced in the employee benefits field, MLA can provide answers to questions and assistance in complying with these requirements.

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