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Group Administrators

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## HEALTH REFORM UPDATE ADULT DEPENDENT COVERAGE MAY 10, 2010

In early April, RGA provided you with a brief summary of the changes that will be required of all self-insured and insured group health plans as a result of the Health Reform legislation passed at the end of March, 2010. In that summary, we indicated that there were many unanswered questions and that guidance on how each of the provisions would be implemented was expected. Some of that guidance is now being published.

The Health Reform law, now being called the Affordable Care Act, requires that plans extend coverage for dependents up to age 26 regardless of their marital, employment, financial, residence, student or tax dependent status. This requirement must be implemented no later than plan years beginning after September 23, 2010. Interim final guidance has just been issued by the federal Department of Health and Human Services that clarifies some of the outstanding questions regarding this mandatory coverage. Following are the questions and the answers to guide you in making informed decisions regarding your plan design.

**Q. Must self-funded group health plans comply with this mandate?**

A. Yes. All group health plans must comply, whether insured or self-insured.

**Q. If an adult dependent was covered under a parent's plan, but lost coverage because they reached the maximum eligibility age under the plan, can they reenroll and receive coverage?**

A. Yes. All plans must provide written notice and a thirty (30) day special election opportunity for any dependents that lost coverage and permit them to reenroll for coverage as a dependent under the plan. This special election period must occur no later than the first day of the plan year beginning after September 23, 2010, and coverage must begin on the first day of the new plan year. If the plan currently has an annual open enrollment period that occurs prior to the beginning of each new plan year, adult dependents may enroll or reenroll for coverage at that time. If the plan does not have an annual open enrollment period, the plan must still provide notice and the special thirty (30) day enrollment period for eligible adult dependents.

**Q. If an adult dependent lost coverage because they reached the maximum eligibility age under the plan and they elected and are currently covered by COBRA continuation coverage, must they be provided the opportunity to reenroll as an adult dependent under the plan?**

A. Yes, if the employee is still actively employed and eligible for coverage under the plan. If the adult dependent subsequently loses active coverage because they reach age 26 or for any other COBRA qualifying event reason, they must be provided

another opportunity to elect COBRA for the full period required by that qualifying event.

**Q. How must the special notice of eligibility to enroll be provided to adult dependents?**

A. The notice requirement will be considered met if notice is provided to the employee on the adult dependent's behalf, or included in the other enrollment materials distributed to employees, provided that the statement of adult dependent eligibility is prominent.

**Q. If an adult dependent is employed and has group health coverage through their own employer, must they be allowed to enroll as a dependent under a parents plan?**

A. No. Adult children who are eligible for health coverage through their own employer are not eligible for continued coverage as an adult dependent under a parent's plan. This is the one exception currently permitted in the law for plans in existence on March 23, 2010, however in 2014 this exception will sunset.

**Q. Does the law require that children of dependent children be covered? Or Spouses of an adult dependent?**

A. No. The law does not mandate coverage for spouses or for children of dependent adult children. Plans are, however, free to extend coverage to these individuals if they wish.

**Q. If an employee is eligible for coverage but not currently enrolled in the plan, but has a dependent that is eligible for coverage as an adult dependent, must the employee be allowed to enroll in the plan?**

A. Yes. Because the special enrollment period that is being extended to adult dependents is considered a HIPAA special enrollment period, the plan must provide the opportunity for the employee to enroll for coverage at the same time, in addition to the adult dependent, and for them to select any plan available to similarly situation individuals.

**Q. Does the plan have to permit an adult dependent to enroll for coverage if they have never been eligible for or covered under the plan prior to this requirement?**

A. Yes, if the adult dependent is under age 26 and not eligible for coverage under their own employers health plan.

**Q. Can the plan implement a surcharge for adult dependent coverage?**

A. No. Adult dependents cannot be charged more than any individual, similarly situated, who did not lose coverage because of cessation of dependent status.

**Q. Can the plan develop a special set of benefits that apply to adult dependents or that adult dependents are required to enroll in for coverage?**

A. No. Benefits or plan eligibility cannot vary based on the age of the child.

**Q. Will contributions made by the employer or the employee for adult dependent coverage be considered taxable income to the employee?**

A. No. Tax law has been amended to exclude the value of any employer provided health coverage from your income through the end of the taxable year in which the adult dependent turns age 26.

**Q. What happens if an adult dependent under the age of 26 is not eligible for employer sponsored health coverage on their own, and both parents have separate plans that offer dependent coverage? Which plan must extend coverage to the adult dependent?**

A. Both plans must permit coverage - neither plan can deny coverage. The plans will be required to coordinate coverage (coordination of benefits or COB) with each other.

**Q. If my plan does not currently provide dependent coverage, does the law require the plan to begin offering it?**

A. No. There is no requirement that a plan offer dependent coverage under existing law or under the Affordable Care Act.

**Q. When must my plan begin providing coverage to dependents up to age 26?**

A. No later than the first day of the first plan year that begins on or after September 23, 2010. If your plan renews on October 1, 2010, you must comply with the new law starting on that date. Many, if not most, of the large insurance company's have already extended coverage to dependents up to age 26 for their fully insured plans in advance of the required effective date.

**Q. When can the plan terminate coverage for an adult dependent?**

A. The plan can choose to terminate adult dependent coverage as early as the date of the adult dependent's 26<sup>th</sup> birthday, however, IRS regulations permit favorable tax treatment for any contributions made toward the cost of a dependent's coverage through the end of the taxable year in which the dependent turns age 26.

**Q. Has a model adult dependent eligibility notice been published yet?**

A. No. Additional guidance is expected.

If RGA prepares your Summary Plan Description(s), we are currently in the process of developing appropriate plan language for inclusion in your SPDs. At your request, we will also assist you in the preparation of the required eligibility notice as needed.

As more information becomes available on this or other provisions of the Affordable Care Act, RGA will provide you additional updates. If you have any questions, please don't hesitate to contact any member of your RGA Account Team.

*Disclaimer: The information contained herein is not intended to be legal advice, and while every effort has been made to ensure that the content of this legislative update is accurate, RGA makes no representations or warranties in relation to the information provided, and assumes no liability or responsibility for any acts or omissions based on this information. As always, we encourage you to consult with your own legal counsel prior to making any decisions regarding plan design or administration.*