



# TEXAS ASSOCIATION *of* COUNTIES HEALTH AND EMPLOYEE BENEFITS POOL

## *Frequently Asked Questions about Grandfathered Health Benefit Plans*

### 1) What is a “grandfathered plan”?

Grandfathered health plans under the Patient Protection and Affordable Care Act (ACA) are those existing without major changes to their provisions since March 23, 2010, the date of the ACA's enactment.

### 2) What makes a non-grandfathered plan different?

*Grandfathered plans do not have to comply with several ACA requirements, including those listed below, which **Non-grandfathered plans must** comply with:*

- Provide coverage for preventive care without member cost-sharing (no co-pays, deductibles, or coinsurance) when using an in-network provider. There are over 60 services included in this requirement, including annual wellness visits for all ages, age and gender appropriate immunizations and screenings, and contraceptive services for women. A full listing can be found at <http://www.healthcare.gov/what-are-my-preventive-care-benefits>
- Limitations on out-of-pocket maximum amounts
- External review of appeals: a member who contests the denial of a service recommended by his/her medical provider can request an appeal by a federally appointed external review board; the cost of this appeal is charged to the plan
- Coverage for out-of-network emergency services at no additional cost over in-network cost
- Coverage of routine costs associated with clinical trials

### 3) What causes a plan to lose grandfathered status?

*Changing the balance of employer and employee share of costs as follows:*

- Increase co-pays by more than \$5 or a percentage equal to medical inflation (currently 9.5%) plus 15%, whichever is greater.

*Example: if the plan had a \$20 office visit co-pay in March of 2010, it could be increased to \$25 without losing grandfathered status*

- Increase deductible or maximum out-of-pocket amount by more than a percentage equal to medical inflation (currently 9.5%) plus 15%, whichever is greater.

*Example: if the plan had a \$500 deductible and a \$2500 out-of-pocket maximum in March of 2010, it could increase the deductible to \$600 and the out-of-pocket maximum to \$3100 without losing grandfathered status (note that these are non-standard amounts for TAC HEBP plans)*

- Decrease percentage of plan coinsurance rate by any amount.

*Example: if the plan had a 90% coinsurance rate in March of 2010, it could not decrease the rate to 80% without losing grandfathered status*

- Lower the employer contribution rate by more than 5% for any group of covered persons.

*Example: if the employer paid \$1000 per month toward the cost of employee and spouse coverage in March of 2010, it could not decrease the contribution below \$950 without losing grandfathered status*

- Add or reduce an annual dollar limit (overall or for a specific service).

*Example: if the plan had no limit on charges for physical therapy services in March of 2010, it could not impose a \$5000 per year maximum on them without losing grandfathered status*

- Eliminate or substantially reduce benefits for a particular condition.

*Example: if the plan covered counseling and prescription drugs to treat certain mental disorders in March of 2010, it could not eliminate coverage for counseling without losing grandfathered status*

#### 4) What plan changes can be made which will not cause the plan to lose grandfathered status?

- Changing insurer or third-party administrator, as long as benefits don't change
- Changing from self-insured to fully-insured, as long as benefits don't change
- Increasing benefits, including adding a wellness program
- Passing along premium increases, as long as cost-sharing percentages remain the same
- Adding a coverage tier (such as employee + 1 child), as long as cost-sharing percentages are consistent with other tiers and stay within the 5% guidelines
- Moving drugs to a different copay tier because the drugs have become available as generic
- Changing provider networks, as long as benefits don't change
- Changes required by law

#### ADDITIONAL NOTES:

- Because of the additional coverage requirements and reduction of employee cost share required by the ACA, changing from grandfathered to non-grandfathered status will likely result in a rate increase. For TAC HEBP groups, this increase is estimated at 1.5 – 2%.
- Under the current regulations, there is no specific end date for grandfathered status.
- Plan changes are measured cumulatively since March 2010.
- Plans must include a notice about grandfathered status in significant participant communications, such as enrollment materials and summary plan descriptions.
- The majority of TAC HEBP member groups still have grandfathered plans.
- All plans in the TAC HEBP Private Exchange are non-grandfathered.