United Actuarial Services, Inc.
Actuaries and Consultants

2011-04

January 20, 2011

CLIENT BULLETIN

New Notices Required Under Health Care Reform

This *Client Bulletin* will review the new Notice requirements for health plans, including multiemployer group health plans under the *Patient Protection and Affordable Care Act (PPACA) or Affordable Care Act (ACA). These Notice requirements have been discussed in earlier Research Department publications but are reiterated here as the compliance date is fast approaching. The PPACA HHS guidance is posted at http://www.hhs.gov/ociio/regulations/index.html and the PPACA DOL Guidance at http://www.dol.gov/ebsa/healthreform.*

Under the *PPACA,* there are possibly five notices a plan will need to distribute to the applicable participants and dependents. The type of Notice and compliance date is discussed first and then a detailed look is taken at three of the Notices.

Lifetime Limits, Age 26 and Patient Protections

The first three notices have a compliance date for distribution *not later than the first day of the first plan year beginning on or after September 23, 2010* and were discussed in *Benefit News Briefs 2010-53.*

- Model Notice of Lifetime Limits No Longer Applying and Enrollment Opportunity (*grandfathered and non-grandfathered plans*)
- Model Notice of Opportunity to Enroll in Connection with Extension of Dependent Coverage to Age 26 (*grandfathered and non-grandfathered plans*)
- Model Notice on Patient Protections (*non-grandfathered plans only*)

Grandfather Notice

The next Notice only affects grandfathered plans. Although there is no specific distribution date, plans that wish to maintain grandfathered status must distribute a Status Notice in **any plan materials** provided to a participant or beneficiary **describing the benefits provided under the plan** or health insurance coverage, that the plan or coverage believes it is a grandfathered health plan. See *Benefit News Briefs 2010-44* for more information. The Model Grandfather Notice is available by "*clicking here*."

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Waiver of Annual Limits ("mini-med" plans)

A class of group health plans and health insurance coverage, generally known as "limited benefit" plans or "mini med" plans, often has annual limits well below the restricted annual limits set out in the interim final regulations. These group plans and health insurance coverages usually offer lower-cost coverage to part-time workers, seasonal workers, and volunteers who otherwise may not be able to afford coverage at all. In order to ensure that individuals with certain coverage, including coverage under limited benefit or mini-med plans, would not be denied access to needed services or experience more than a minimal impact on premiums, the interim final regulations contemplated a waiver process for plan or policy years beginning prior to January 1, 2014. The waiver would be for cases in which compliance with the restricted annual limit provisions of the interim final regulations "would result in a significant decrease in access to benefits" or "would significantly increase premiums."

As a condition of receiving a waiver of the annual limits requirement, a group health plan or health insurance issuer will be **required to provide a Notice** informing each participant or subscriber that the plan or policy does not meet the restricted annual limits for essential benefits set forth in the regulations because it has received a waiver of the requirement.

Waiver of Annual Limits Notice Compliance Date

Waivers for plan years that begin before February 1, 2011
Plans must provide the required Notice to current and eligible participants within 60 days from the date of issuance of the guidance (12/9/10), which is February 7, 2011.

Waivers for plan years that begin on or after February 1, 2011
Plans must provide the Notice to eligible participants as part of any informational or educational materials, and also in any plan or policy documents evidencing coverage that are sent to enrollees (e.g., summary plan descriptions).

The Model Waiver of Annual Limits Notice is available by "*clicking here.*"

A Closer Look: Lifetime Limits, Age 26 & Patient Protections Notices

We will take a closer look at these three Notices as they have the same compliance date – the first day of the first Plan year beginning on or after September 23, 2010. Only non-grandfathered plans must comply with the Patient Protections Notice.

Model Notice on Lifetime Limits No Longer Applying and Enrollment Opportunity

This Notice applies to grandfathered and non-grandfathered group health plans and is available by "*clicking here.*" Such plans are required to give written notice that the lifetime limit on the dollar value of all benefits no longer applies. The Notice addresses three scenarios of which an individual would gain coverage for benefits under the Plan:

1. **Individual previously lost coverage due to reaching their maximum limit.**
   If an individual lost coverage due to reaching their maximum limit but would still be eligible to be covered under the plan otherwise, the plan must allow the individual to re-enroll in the plan.

2. **Individual is not enrolled in the plan.**
   If an individual is not currently enrolled in the plan, the plan must give the individual an opportunity to enroll during a period that continues for at least 30 days (including written notice of the opportunity to enroll).

3. **Enrolled individual is eligible but not enrolled in the plan.**
   If an individual is currently eligible to enroll in the plan but has not enrolled, the plan must give the individual an opportunity to enroll during a period that continues for at least 30 days (including written notice of the opportunity to enroll).

The Notices and enrollment opportunity must be provided beginning not later than the first day of the first plan year beginning on or after September 23, 2010 (January 1, 2011 for calendar year plans). For individuals who enroll under this opportunity, coverage must take effect not later than the first day of the first plan year beginning on or after September 23, 2010 (January 1, 2011 for calendar year plans).

These Notices may be provided to a participant on behalf of the participant's dependents. In addition, the Notices may be included with other enrollment materials that a plan distributes to participants, provided the statement is prominent.

For more information on the lifetime limits/annual limits changes made by the *PPACA* see *Client Bulletin 2010-47.*

Model Notice of Opportunity to Enroll in Connection with Extension of Dependent Coverage to Age 26

The interim final regulations extending dependent coverage to age 26 provides transitional relief for a child whose coverage ended, or who was denied coverage (or was not eligible for coverage) under a group health plan because, under the terms of the plan, the availability of dependent coverage of children ended before age 26.

The regulations require a plan to give such a child an opportunity to enroll that continues for at least 30 days (including written notice of the opportunity to enroll). This enrollment opportunity (including the written notice) must be provided not later than the first day of the first plan year beginning on or after September 23, 2010 (January 1, 2011 for calendar year plans).

The Notice may be included with other enrollment materials that a plan distributes, provided the statement is prominent. Enrollment must be effective as of the first day of the first plan year beginning on or after September 23, 2010 (January 1, 2011 for calendar year plans). This Model Notice is available by "*clicking here.*"

For more information on the age 26 coverage changes made by the *Affordable Care Act* see *Client Bulletin 2010-34.*

Model Notice on Patient Protections

This Notice does **NOT** apply to grandfathered group health plans, but does apply to non-grandfathered group health plans. For such plans, the Notice provides information of the Participant's rights to:

1. choose a primary care provider or a pediatrician when a plan or issuer requires designation of a primary care physician; or

2. obtain obstetrical or gynecological care without prior authorization.

The interim final regulations regarding patient protections under Section 2719A of the *PPACA* require non-grandfathered group health plans to provide the Notice to participants of these rights.

The Notice must be provided whenever the plan provides a participant with a summary plan description or other similar description of benefits under the plan.

This Notice must be provided no later than the first day of the first plan year beginning on or after September 23, 2010 (January 1, 2011 for calendar year plans). This Model Notice is available by "*clicking here.*"

For more information on the patient protections applicable to non-grandfathered plans by the *PPACA* see *Client Bulletin 2010-47.*

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