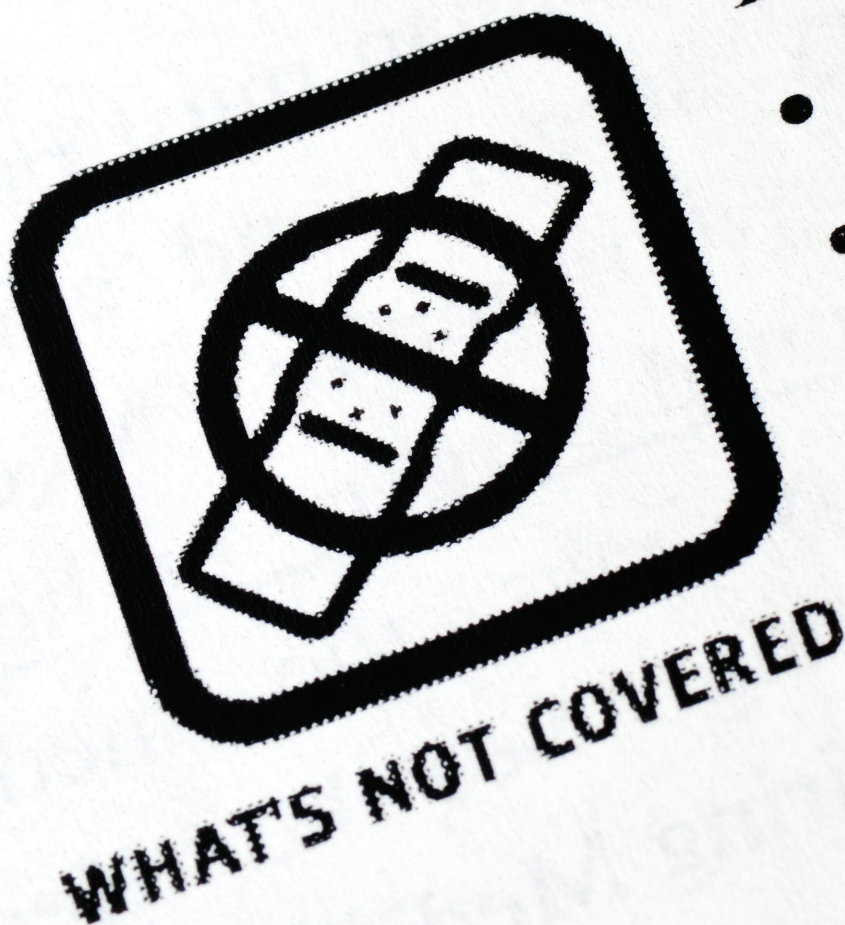


# Employers Take Notice of NOTICE Requirements

by Julie Rush, RHU, REBC



- Here are some examples of services that are not covered:
- Private duty nursing
  - Private room charges
  - Nonmedical services
  - Hospital charges
  - preapproved services
  - Investment services
  - Cosmetic services

PPACA, ERRP and grandfathered status; these new terms have become a regular part of healthcare vocabulary since President Obama signed the monumental healthcare reform legislation in March 2010. Although many details have yet to be finalized, it is certain that employers will face a number of specific obligations at the beginning of their next plan year. This article identifies the various required notices and discusses the steps employers must take in order to comply.

### Coverage for young adults

One aspect of healthcare reform receiving significant attention is the requirement to cover qualifying young adults whose parents have private group and non-group health coverage. Coverage must be extended to young adults, even when they are:

- no longer living with a parent
- not a dependent on a parent's tax return
- no longer a student
- married

Young adults will be provided with the same benefit package as dependents who are already covered, and coverage can be continued until the dependent reaches age 26. The employee's cost can be increased only if the addition of the dependent changes the coverage tier.

Did you know that two different healthcare reform bills were signed on two different days, thus creating two separate effective dates for provisions based on the "date of enactment" of the provision?

H.R. 3590, the Patient Protection & Affordable Care Act (PPACA), was signed on March 23, 2010, while H.R. 4872, The Health Care & Education & Reconciliation Act of 2010 (HCERA), was signed on March 30, 2010.

For the purpose of tax-free health coverage, HCERA changed the definition of "dependent" to include a child who does not yet turn age 27 during the year, regardless of whether the child otherwise qualifies as a tax dependent.

Grandfathered plans can disallow enrollment of a young adult who is eligible for other employer-sponsored coverage – but only until 2014. Plans eligible for this restriction (and those wishing to enforce it) will have to determine how to monitor a dependent's eligibility for employer-sponsored coverage.

Some carriers and plans have already increased the dependent limiting age to 26 in anticipation of the new requirement. Doing so allows dependents who would have otherwise lost coverage in May or June, for example, to remain covered, but this change alone does not completely satisfy the requirement. Plans must still offer an enrollment opportunity for dependents who are under age 26 and whose coverage had ended due to an age restriction or loss of student status. The enrollment period must be a minimum of 30 days. Plans must provide written notice of this enrollment period no later than the first day of the first plan year beginning on or after September 23, 2010. If elected, coverage must begin no later than the first day of the first plan year beginning on or after September 23, 2010.

The Department of Labor (DOL) has provided a model notice that employers can use to notify participants of the enrollment period for dependents under age 26. This notice can be incorporated into other open enrollment materials, provided the language is prominent.

Many states have already passed legislation extending coverage to young adults. Healthcare reform does not revoke or change these laws. If an employer-sponsored plan is subject to state insurance law, the plan will have to comply with the greater of the state or federal provisions.

Self-funded insurance plans do not have to comply with state-level insurance regulations, but must comply with federal requirements. Insured plans must comply with the greater of the federal or state mandate.

The age 26 provision does not extend coverage to dependents who are not otherwise eligible for coverage. For example, there is no requirement to offer coverage to a grandchild, even if that child's parent is a covered dependent.

### Coverage for others who have lost coverage

In addition to the enrollment period for dependents, plans must also extend an enrollment period to any otherwise eligible participant who lost coverage due to reaching the lifetime maximum. Again, the DOL provided model notice language that can be used separately or incorporated into other open enrollment materials, as long as the language is prominent.

Are you interested in being notified when the government issues updates on the Affordable Care Act? It's easy. Simply go online to the DOL Affordable Care Act page: [www.dol.gov/ebsa/healthreform](http://www.dol.gov/ebsa/healthreform)

In the upper right corner, just below the title banner, you will see an option to subscribe to the page. If you click on this, you will be asked to insert your e-mail address. Once you have provided your e-mail address, the page will automatically send you an e-mail whenever the DOL creates a new post or changes something already posted.

### Grandfathered status

For plans that retain grandfathered status, all plan materials provided to participants must include a statement that the plan believes it is a grandfathered plan within the meaning of Section 1251 of the PPACA and must provide contact information for questions and complaints. Again, model notice language is available on the DOL website. The notice language should be incorporated into the open enrollment materials, as well as the Summary Plan Description (SPD) and any other plan materials (e.g., a new employee packet) that are maintained.

### Designation of primary care physician

Plans that require participants to designate a primary care physician must allow participants to select any primary care provider who participates in the plan's network and is available to accept the participant. For children, parents may select any participating pediatrician. Additionally, plans or issuers may not require a referral for obstetrical or gynecological care. The interim final regulations have added the requirement that the plan or issuer must inform the participants of their rights related to choosing a physician. The DOL has provided model notice language to be included in the SPD. Model language is on the DOL website.

*Planning Tip:* Since the notice must be provided no later than the first day of the first plan year beginning on or after September 23, 2010, you may consider incorporating this language into your open enrollment materials, as well as the SPD. Not all plans will have to address this requirement; only plans requiring designation of a primary care physician need to be concerned with this condition.

It is important to remember that the three notices (or possibly four, depending on your plan) outlined in this article need to be distributed no later than the first day of the first plan year on or after September 23, 2010. For calendar year plans, this date falls on January 1, 2011.

SilverStone Group associates will closely follow the evolving healthcare environment. We are available to address any questions or concerns employers may have as they prepare to address the number of plan requirement changes anticipated in the near future.

