Dependent Coverage

**Summary:** Requires all plans offering dependent coverage to allow individuals until age 26 to remain on their parents’ health insurance.

**Status updates:**
- On September 24, 2010, Secretary Sebelius wrote to the America’s Health Insurance Plans (AHIP) regarding concerns with adverse selection and the new dependent coverage rules.
- On December 23, 2010, the Department of Labor (DoL) Employee Benefits Security Administration posted to its website a fifth set of frequently asked questions (FAQ) regarding grandfathered plan requirements. Among other things, the FAQ clarified copayment restrictions for dependents.

**Next steps:**
- September 23, 2010 – These interim final regulations generally apply to group health plans and group health insurance issuers for plan years beginning on or after September 23, 2010. These interim final regulations generally apply to individual health insurance issuers for policy years beginning on or after September 23, 2010.
- September 24, 2010 – Secretary Sebelius wrote to the America’s Health Insurance Plans (AHIP) regarding concerns with adverse selection and the new dependent coverage rules.
- December 23, 2010 – The Department of Labor (DoL) Employee Benefits Security Administration posted to its website a fifth set of frequently asked questions (FAQ) regarding grandfathered plan requirements. Among other things, the FAQ clarified copayment restrictions for dependents.

**Additional information:**
- Sebelius comments asking insurers to promote the dependent care coverage in advance of deadline -- [http://www.healthreform.gov/forums/blog/blog_20100420_1.html](http://www.healthreform.gov/forums/blog/blog_20100420_1.html)
**Long summary:**
Public Health Service Act sec. 2714. Extension of dependent coverage (as modified by sec. 2301 of the Health Care and Education Reconciliation Act of 2010 (HCERA)).

Requires a group health plan and an issuer offering group or individual coverage that provides coverage of dependent children to continue to make such coverage available for an adult child until the child turns 26 years of age. Clarifies that this provision does not require a plan or issuer to make coverage available for a child of a child receiving dependent coverage. Requires the Secretary to issue regulations to define dependents for this purpose. Clarifies that this provision does not change “dependent” as used in the Internal Revenue Code (IRC) with respect to the tax treatment of the cost of coverage.

**Summary of the IFR:**
On May 10, 2010, the U.S. Departments of Health and Human Services (HHS) and Treasury issued an interim final rule regarding dependent coverage of individuals until the age of 26. Specifically, these interim final regulations:

- clarify that, with respect to children who have not attained age 26, a plan or issuer may not define dependent for purposes of eligibility for dependent coverage of children other than in terms of the relationship between the child and the participant (in the individual market, the primary subscriber)¹,
- provide that the terms of the plan or policy for dependent coverage cannot vary based on the age of a child, except for children age 26 or older,
- state that plans and issuers may not limit dependent coverage based on whether a child is married,
- provide that, for plan years beginning before January 1, 2014, a grandfathered health plan that is a group health plan that makes available dependent coverage of children may exclude an adult child who has not attained age 26 from coverage only if the child is eligible to enroll in an employer-sponsored health plan (as defined in section 5000A(f)(2) of the Code) other than a group health plan of a parent, and
- require a plan or issuer to give such a child an opportunity to enroll that continues for at least 30 days (including written notice of the opportunity to enroll), regardless of whether the plan or coverage offers an open enrollment period and regardless of when any open enrollment period might otherwise occur. This enrollment opportunity (including the written notice) must be provided not later than the first day of the first plan year (in the individual market, policy year) beginning on or after September 23, 2010.

**Legislative text:**
SEC. 2714. EXTENSION OF DEPENDENT COVERAGE (as modified by sec. 2301 of HCERA).

"(a) IN GENERAL.—A group health plan and a health insurance issuer offering group or individual health insurance coverage that provides dependent coverage of children shall continue to make such coverage available for an adult child until the child turns 26 years of age. Nothing in this section shall require a health plan or a health insurance issuer described in the preceding sentence to make coverage available for a child of a child receiving dependent coverage.

"(b) REGULATIONS.—The Secretary shall promulgate regulations to define the dependents to which coverage shall be made available under subsection (a).

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to modify the definition of ’dependent’ as used in the Internal Revenue Code of 1986 with respect to the tax treatment of the cost of coverage.

¹ Examples of factors that cannot be used for defining dependent for purposes of eligibility (or continued eligibility) include financial dependency on the participant or primary subscriber (or any other person), residency with the participant or primary subscriber (or any other person), student status, employment, eligibility for other coverage, or any combination of these.