

## LEG REG REVIEW 2010, 18th Issue June 21

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### **HHS ISSUES RESTRICTIVE GRANDFATHER RULES**

The Federal Government issued Rules on June 14 specifying how and if health plans can keep their grandfather status under the new health law. It is very restrictive and has prompted a view that the intent was not to allow people to keep their health plan as promised but rather to force plans into non-compliance. Some provisions where the grandfather is voided:

- If you change to a different insurance company
- If the co-pays increase 15% over medical inflation rate or \$5 using a complex formula
- If the employer changes the amount it contributes towards the premium
- If benefits decrease, for example if mental health coverage was reduced to eliminate depression treatment

In addition, the burden is on the employer to justify its' belief that its' plan is grandfathered. Compliance details are sketchy but there will be three agencies at work, IRS, HHS, and Department of Labor. Details: [http://www.healthreform.gov/newsroom/keeping\\_the\\_health\\_plan\\_you\\_have.html](http://www.healthreform.gov/newsroom/keeping_the_health_plan_you_have.html) or [www.pahu.org](http://www.pahu.org)

The above links also provide summaries of what is covered by a grandfather, i.e. from what parts of the new law is a business sheltered. Employers must notify enrollees that the plan is grandfathered as described below but when this notification must be made is uncertain.

*"This [group health plan or health insurance issuer] believes this [plan or coverage] is a 'grandfathered health plan' under the Patient Protection and Affordable Care Act (the Affordable Care Act). Being a grandfathered health plan means that your [plan or policy] does not include certain consumer protections of the Affordable Care Act. Questions regarding which protections apply and which protections do not apply to a grandfathered health plan and what might cause a plan to change from grandfathered health plan status can be directed to the plan administrator at [insert contact information]."*

*It continues: "[For ERISA plans, insert: You may also contact the Employee Benefits Security Administration, U.S. Department of Labor at 1-866-444-3272 or [www.dol.gov/ebsa](http://www.dol.gov/ebsa).] [For individual market policies and nonfederal governmental plans, insert: You may also contact the U.S. Department of Health and Human Services at [www.healthreform.gov](http://www.healthreform.gov).]"*

### **MEDICAL LOSS RATIO ANALYSIS DEADLINE LOOMS**

July 1 is the deadline for the NAIC to present its analysis to HHS regarding the methodology that would establish the mandatory 80 or 85 percent medical loss ratios established by the Federal law. Even though the legislation has December 31, 2010 as the effective date, HHS pressed NAIC to report by June 1 (the law was signed by President Obama on March 23). The insurance commissioners asked for another month. According to some news reports, the NAIC has requested a three-year transition in certain states where the market could be destabilized. The actual text of the letter was not available at time of press.

## **COMMITTEES REMAIN ACTIVE IN JUNE**

Both the House and Senate committees dealing with insurance issues continue their busy pace in June.

The Senate Banking & Insurance Committee plans a June 22 hearing on Senator Stewart Greenleaf's (R-Montgomery) Senate Bill 1199 regarding Lyme disease education, prevention and treatment. On the House side, the Insurance Committee meets June 22 to consider these bills:

- HB 2370 (Costa-D-Allegheny) relative to updating the Public Adjuster Act
- HB 2490 (Johnson-D-Phila.) requires that the Insurance Department and its licensing vendor Prometric do a demographic and racial study of those taking the life/accident/health exam (LAH) for the first time to see if the test itself is causing a high fail rate among certain groups. The bill does not apply to Property/Casualty tests and would be triggered if the fail rate exceeded 70 percent of all first-time test takers in LAH.
- HB 2106 (Taylor-D-Montgomery) implements the Stimulus package law to establish a PA medical records data base called PA Health Information Exchange (PHIX), not to be confused with the health insurance exchanges coming in 2014. This bill had been passed over by the committee last week.

Other bills which may be looked at include HB 1911 providing for oncology Rx drug coverage even if use is not approved by FDA and HB 2420 providing for the restrictive use of senior citizen specific designations in the sale of life insurance and annuities.

## **DEPARTMENT ISSUES FEE INCREASE TO INSURERS**

Per the June 19 PA Bulletin, the Insurance Department is raising fees charged to insurers for financial examinations (6.5% increase) and market conduct exams (2.5%). Details; [www.pabulletin.com](http://www.pabulletin.com)

## **GOVERNOR'S IMPLEMENTATION COMMITTEE APPOINTED**

Governor Rendell's Health Care Reform Implementation Advisory Committee will meet June 30. It was created by the Governor via Executive Order to provide feedback regarding the implementation of the Patient Protection Affordable Health Care Act (new federal health overhaul law). It is not a decision-making body. That rests with another group of government officials. Appointed by the Governor on June 15 were 30 individuals including:

- *Ten doctors or those from the medical/hospital community*
- *Two union members*
- *Two businesspeople from Meadville and York*
- *Three Democratic legislators, Representatives Josh Shapiro and Rick Taylor from Montgomery County, and House Insurance Committee Chairman Tony DeLuca from Allegheny County*
- *Four insurers (two of which have hospital systems)*
- *Six from health reform advocacy and wellness groups*
- *One from the Governor's Council on Disabilities*
- *One consumer*
- *Chairperson Rosemarie Grecco, former head of the Governor's Health Care Reform Office*

## **LEGISLATIVE ACTIONS**

- The House passed House Bill 1865 (Burns-D-Cambria) requiring health insurers to give equal consideration of payment for oral or intravenous chemo treatment for cancer patients.
- Governor Ed Rendell signed House Bill 1641 (Gingrich-R-Lebanon) into law as Act 32 of 2010. It requires that a circulating nurse be present in hospital operating venues when anesthesia is used.
- In Congress, House Republicans failed to pass a procedural motion 187-230 that would have paved the way for an up or down vote on repealing the Patient Protection Affordable Care Act. Two PA Democrats, Reps. Tim Holden from central PA and Jason Altmire from Pittsburgh, voted yes with Republicans (for the motion that would have led to a repeal vote).