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Group Health Plans and Health Insurance Issuers Providing Dependent Coverage of Children to Age 26 under the Patient Protection and Affordable Care Act

Comment On: *IRS-2010-0011-0001*
Group Health Plans and Health Insurance Issuers Providing DependentCoverage of Children to Age 26, etc.

Document: IRS-2010-0011-0008
Comment on FR Doc # 2010-11393

Submitter Information

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General Comment

Treas. Reg. §54.9815-2714T(b) provides that "[w]ith respect to a child who has 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 a relationship between a child and the participant." My suggestion is that the Agencies limit this rule to dependent children who are the children of an employee or member by birth, adoption or placement for adoption.

Some group health plans currently offer coverage to dependent children with a broad range of relationships to employees or members. For example, a group health plan might offer coverage to children up to a specified age who reside with an employee or member in a parent-child relationship and who are wholly dependent on the employee or member for support. Under Treas. Reg. §54.9815-2714T(b), a plan sponsor's options are to: (1) offer coverage to children up to age 26 who have a parent-child relationship with the employee or member; or (2) cease to offer coverage to children on the basis of having a parent-child relationship with the employee or member. Because the first option would result in a significant expansion of eligibility to individuals who are not part of an employee's or member's household, plan sponsors are likely to choose the second option.

A similar issue arises with respect to coverage of grandchildren. Under Treas. Reg. §54.9815-2714T(c), a group health plan is not required to cover an employee's or member's grandchildren.

However, it would appear that if a group health plan chooses to offer coverage to grandchildren, it must do so without regard to financial dependency, residency or age younger than 26. If a group health plan currently offers coverage to grandchildren up to a specified age who reside with an employee or member and who are wholly dependent on the employee or member for support, the plan sponsor's options appear to be to: (1) offer coverage to all grandchildren up to age 26, or (2) cease to offer coverage to grandchildren. As with the previous example, plan sponsors are likely to choose the second option.

In determining whether to apply Treas. Reg. §54.9815-2714T(b) to stepchildren (in addition to an employee's or member's children by birth, adoption or placement for adoption), the Agencies may want to weigh the current scope of stepchild eligibility under group health plans against the potential gains and losses of stepchild eligibility. Typically, group health plans offer coverage to stepchildren up to a specified age who reside with an employee or member but do not offer coverage to stepchildren who do not reside with an employee or member. Under Treas. Reg. §54.9815-2714T(b), a plan sponsor will need to decide whether to: (1) offer coverage to all stepchildren up to age 26; or (2) cease to offer coverage to stepchildren. I expect that some plan sponsors will choose the first option and some will choose the second option.

I appreciate the opportunity to provide these comments and hope that they are helpful.

Attachments

IRS-2010-0011-0008.1: Comment on FR Doc # 2010-11393

VORYS

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Via Federal eRulemaking Portal

Internal Revenue Service
http://www.regulations.gov

Re: Interim Final Rules Relating to Dependent Coverage of Children to Age 26 under the Patient Protection and Affordable Care Act (REG-1 14494-10)

Dear Sir/Madam:

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Some group health plans currently offer coverage to dependent children with a broad range of relationships to employees or members. For example, a group health plan might offer coverage to children up to a specified age who reside with an employee or member in a parent-child relationship and who are wholly dependent on the employee or member for support. Under Treas. Reg. §54.9815-2714T(b), a plan sponsor's options are to: (1) offer coverage to children up to age 26 who have a parent-child relationship with the employee or member; or (2) cease to offer coverage to children on the basis of having a parent-child relationship with the employee or member. Because the first option would result in a significant expansion of eligibility to individuals who are not part of an employee's or member's household, plan sponsors are likely to choose the second option.

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to all grandchildren up to age 26, or (2) cease to offer coverage to grandchildren. As with the previous example, plan sponsors are likely to choose the second option.

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I appreciate the opportunity to provide these comments and hope that they are helpful.

Very Truly Yours,

Linda R. Mendel