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**Subject:** RIN 1210-AB41  
**Date:** Wednesday, August 11, 2010 8:52:51 PM

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Office of Health Plan Standards and Compliance Assistance  
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Department of Labor  
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Washington, DC 20210  
ATTN: RIN 1210-AB41

These comments and requests for clarifications on the interim final rules for group health plans and health insurance issuers relating to dependent coverage of children to age 26 under the Patient Protection and Affordable Care Act are submitted on behalf of the Society of Professional Benefit Administrators (SPBA).

SPBA is the national association of Third Party Administration (TPA) firms that are hired by employers and employee benefit plans to provide outside professional management of their employee benefit plans. It is estimated that 55% of US workers in non-federal health coverage are in plans administered by some form of TPA. The clients of TPA firms include every size and format of employment, including large and small employers, state/county/city plans, union, non-union, collectively bargained multiemployer plans, as well as plans representing religious entities.

#### In General

According to the interim final rule, a group health plan that makes available dependent coverage of children must make such coverage available for children until attainment of 26 years of age. May a plan exclude children serving in the armed forces under age 26?

Many group health plans have a requirement that a dependent is a resident of the same country in which the participant resides. For example, some employees have large families in Mexico where the dependents are not US citizens. May plans retain US residency as a condition of dependent eligibility. Or, may plans redefine child to include dependents who are US residents?

May a plan document continue to exclude stepchildren where the employee or spouse does not have financial responsibility?

If a newly eligible dependent is totally disabled, and an eligibility provision of the plan allows coverage for totally disabled individuals beyond the limiting age, must the plan allow this new individual to stay on the plan once they reach the age of 26? In essence, if continued coverage for the disabled individual rests solely on the limiting age of the plan, must the new limiting age of 26 be the age used in determining whether someone was totally disabled?

The standard meaning of placed for adoption involves a child's financial dependency on the employee. May financial dependency still be used as an eligibility threshold in the case of children who are placed for adoption?

Coverage of Grandchildren Not Required

If a group health plan voluntarily decides to cover grandchildren, may the plan impose eligibility thresholds that are prohibited for other children (i.e., age requirements, financial dependency, residency, etc.)? May the benefits for grandchildren be less than the benefits for other children?

#### Transitional Rules

Under the transitional rules for individuals whose coverage ended by reason of reaching a dependent eligibility threshold, a group plan is required to give a qualifying child an opportunity to enroll. The interim final rules anticipate that this enrollment opportunity will only apply to children who are young adults. Children under the age of 18 may have lost coverage or were denied coverage because they no longer satisfied a condition under the plan, such as residency, etc.

We request the agencies to clarify in future guidance whether or not the transitional rules apply to non-adult children. Is there any time limit on how far back a plan must offer the opportunity to enroll? What if a dependent lost eligibility status eight years ago or more?

Any child enrolling in a group health plan pursuant to the transitional rules must be treated as if the child were a special enrollee. In future guidance, please explain how preexisting condition provisions may be applied to children enrolling under the transitional rules in light of the new prohibition of preexisting conditions on children under age 19.

If a child was dropped from coverage as the dependent of an active employee due to reaching a dependent eligibility threshold and the employee subsequently had a COBRA qualifying event, must the COBRA plan offer a transitional enrollment opportunity?

#### Special Rule for Grandfathered Group Health Plans

For plan years beginning before January 1, 2014, a group health plan that qualifies as a grandfathered health plan may exclude an adult child who has not attained age 26 from coverage only if the adult child is eligible to enroll in an eligible employer-sponsored health plan other than a group health plan of a parent.

If an adult child is eligible for employer-sponsored coverage based on his own employment but has no enrollment opportunity under his plan, will his eligibility remove the obligation on the parents plan to enroll the adult child? The transitional enrollment opportunity created under PPACA only applies to individuals whose coverage ended (or was denied coverage, or was not eligible for coverage) by reason of reaching a dependent eligibility threshold. The adult child may not be enrolled in his own employers plan due to cost, but not due to reaching a dependent eligibility threshold. It is our understanding that the adult child's plan provided through the adult child's employment is not required to offer a new enrollment opportunity.

Is loss of eligibility under a parents plan due to eligibility under another employer-sponsored plan other than a group health plan of a parent a COBRA qualifying event?

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