LEGAL PROCESSING DIVISION
PUBLICATION & REGULATIONS
BRANCH.

REG-118412-10

JUL 2 9 2010

PUBLIC
SUBMISSION

As of: July 28, 2010	
Received: July 28, 2010	
Status: Posted	
Posted: July 28, 2010	
Tracking No. 80b2276b	
Comments Due: August 16, 2010	
Submission Type: Web	

Docket: IRS-2010-0010
Group Health Plans and Health Insurance Coverage Rules Relating to Status as a Grandfathered
Health Plan Under the Patient Protection and Afforable Care Act

Comment On: IRS-2010-0010-0001
Group Health Plans and Health Insurance Coverage: Interim Final Rules for Relating to Status as
a Grandfathered Health Plan under the Patient Protection and Affordable Care Act

Document: IRS-2010-0010-0010
Comment on FR Doc # 2010-14488

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General Comment

Employer provides a fixed dollar contribution toward certain retiree coverage options (which are
part of a larger self-funded plan that also covers active employees). If plan costs rise such that
employer has to increase the "premium" that it sets for such coverage, the employer's
percentage of the premium will automatically decrease because it contributes a fixed dollar
amount per retiree. Similarly, if plan costs descrease, at the end of the year, the employer's
contribution percentage toward the overall cost of coerage could actually descrease.

The regulations should address this type of fixed contribution, which is common in the retiree
coverage context. (Similarly, it is common for employers who offer retiree coverage to use a
wrap plan for 5500 filing purposes, such that the retiree coverage would not be considered a
retiree only plan.) You might provide that such an option could lose grandfathering if the
employer's percentage contribution towards the option descreases by more than 5% as compared
to its March 23, 2010 or that this "descreased percentage" rule would not apply to a fixed dollar
contribution.