Newtek®
"The Small Business Authority®"

FAQs on Dependent Coverage to Age 26

Beginning with plan years on or after September 23, 2010, when a group health plan covers dependents, it must do so until a child reaches the age of 26, even if the young adult no longer lives with his or her parents, is not a dependent on a parent's tax return, or is no longer a student. There is a temporary exception for grandfathered group health plans, which may exclude adult children who are eligible to enroll in an employer-sponsored health plan other than the group health plan of the parent. This exception will no longer be applicable for plan years beginning on or after January 1, 2014.

Below are common questions and answers for employers and group health plans regarding the requirement to provide dependent coverage to age 26. For additional information, please review the FAQs from the U.S. Department of Labor.

Q. What plans are required to extend dependent coverage up to age 26?
A. The Affordable Care Act requires plans and issuers that offer dependent coverage to make the coverage available until a child reaches the age of 26. Both married and unmarried children qualify for this coverage. This rule applies to all plans in the individual market and to new employer plans. It also applies to existing employer plans unless the adult child has another offer of employer-based coverage (such as through his or her job). Beginning in 2014, children up to age 26 can stay on their parent's employer plan even if they have another offer of coverage through an employer.

Q. Can plans or issuers who offer dependent coverage continue to impose limits on who qualifies based upon financial dependency, marital status, enrollment in school, residency or other factors?
A. No. Plans and issuers that offer dependent coverage must provide coverage until a child reaches the age of 26. There is one exception for group plans in existence on March 23, 2010. Those group plans may exclude adult children who are eligible to enroll in an employer-sponsored health plan, unless it is the group health plan of their parent. This exception is no longer applicable for plan years beginning on or after January 1, 2014.

Q. Will a group health plan or issuer fail to satisfy section 2714 of the Public Health Service Act (PHS Act) and its implementing interim final regulations merely because it conditions health coverage on support, residency, or other dependency factors for individuals under age 26 who are not described in section 152(f)(1) of the Internal Revenue Code? (That section of the Code defines children to include only sons, daughters, stepchildren, adopted children (including children placed for adoption), and foster children.)
A. No. A plan or issuer does not fail to satisfy the requirements of PHS Act section 2714 or its implementing regulations because the plan limits health coverage for children until the child turns 26 to only those children who are described in section 152(f)(1) of the Code. For an individual not described in Code section 152(f)(1), such as a grandchild or niece, a plan may impose additional conditions on eligibility for health coverage, such as a condition that the individual be a dependent for income tax purposes.

Q. Does the law apply to plans or issuers that do not provide dependent coverage?
A. No. There is no federal requirement compelling a plan or issuer to offer dependent coverage at this time. However, the vast majority of group health plans offer dependent coverage and many family policies exist in the individual market.

Q. It seems like plans and insurers can terminate dependent coverage after a child turns 26, but employers are allowed to exclude from the employee's income the value of any employer-provided health coverage through the end of the calendar year in which the child turns age 26. This is confusing.
A. Under the law, the requirement to make adult coverage available applies only until the date that the child turns 26. However, if coverage extends beyond the 26th birthday, the value of the coverage can continue to be excluded from the employee's income for the full tax year (generally the calendar year) in which the child had turned 26. For example, if a child turns 26 in March but is covered under the employer plan of his parent through December

FAQs on Dependent Coverage to Age 26

31st (the end of most people's taxable year), the value of the health care coverage through December 31st is excluded from the employee's income for tax purposes. If the child stops coverage before December 31st, then the premiums paid by the employee up to the time the plan was stopped will be excluded from the employee's income.

Q. My group health plan normally charges a copayment for physician visits that do not constitute preventive services. The plan charges this copayment to individuals age 19 and over, including employees, spouses, and dependent children, but waives it for those under age 19. Is this permissible?

A. Yes. The Departments' regulations implementing PHS Act section 2714 provide that the terms of a group health plan or health insurance coverage providing dependent coverage of children cannot vary based on age (except for children who are age 26 or older). While this generally prohibits distinctions based upon age in dependent coverage of children, it does not prohibit distinctions based upon age that apply to all coverage under the plan, including coverage for employees and spouses as well as dependent children. In this case, the copayments charged to dependent children are the same as those charged to employees and spouses. Accordingly, the Departments will not consider the arrangement described in this question (including waiver, for individuals under age 19, of the generally applicable copayment) to violate PHS Act section 2714 or its implementing regulations.