



CONNER
STRONG &
BUCKELEW

legislativeUPDATE

April 2011

FAQ Part VI on Healthcare Reform Implementation

The agencies have issued additional [Frequently Asked Questions \(FAQs\)](#) regarding implementation of the healthcare reform provisions. Like previously issued FAQs ([Part I](#), [Part II](#), [Part III](#), [Part IV](#), and [Part V](#)), these new FAQs are intended to provide additional clarity and assistance regarding the healthcare reform law.

These latest FAQs address certain aspects of the [“grandfather” rules](#) issued last summer.

- **Anti-abuse rule:** The grandfather rules generally state that transferring employees from one grandfathered plan or benefit package (transferor plan) to another (transferee plan) will cause the transferee plan to lose grandfather status if amending the transferor plan to replicate the terms of the transferee plan would have caused the transferor plan to lose grandfather status. However, this rule applies only if there was no bona fide employment-based reason to transfer the employees. The first FAQ clarifies the circumstances under which a transfer of employees from one grandfathered plan (transferor plan) or benefit package to another (transferee plan) will not cause the transferee plan to lose grandfather status.
- **Prescription drug tiers:** The second FAQ clarifies that the movement of a brand name drug into a higher-cost sharing tier when a generic alternative becomes available will not cause the plan to lose grandfather status.
- **Value-based design and preventive services:** The third FAQ references [FAQs Part V](#) which permit copayments for colorectal preventive services provided at an in-network outpatient hospital setting. It addresses plans that currently offer such services with no copayments through both an in-network ambulatory surgery center and an in-network outpatient hospital setting. These plans may adopt a Value-Based Insurance Design (VBID) approach by imposing a copayment only when such services are performed in the in-network outpatient hospital setting. The answer also clarifies that the increase in copayment would not cause a plan to lose grandfather status. The agencies are seeking further information on VBID and wellness programs and are planning to address issues relating to those designs and programs in future regulations. The agencies will be giving close attention to comments from plan sponsors expressing an interest in being able to retain grandfather status notwithstanding certain changes in plan terms that are intended to implement VBID and wellness programs. Accordingly, further guidance may be issued addressing other circumstances in which plan changes implementing those designs and programs may be made without losing grandfather status.
- **Timing issues:** The fourth and fifth FAQs clarify that a plan or coverage operating on a

calendar plan year will cease to be a grandfathered plan when an amendment that causes the plan to lose grandfather status becomes effective, regardless of when the plan amendment is adopted. Therefore, if a plan sponsor decides to adopt an amendment on July 1, 2011 that causes the plan to lose grandfather status, and the change becomes effective for the plan year beginning on January 1, 2012, the plan would cease to be a grandfathered health plan on January 1, 2012, the first day of the first plan year for which the change is effective. If a plan sponsor wishes to avoid losing grandfathered status in the middle of a plan year, any changes that will cause a plan or coverage to lose grandfather status should be made effective the first day of a plan year that begins after the change is adopted.

- Employer contributions: The sixth FAQ addresses an employer's contribution rate based on a formula and cost of coverage in an example where the employer makes contributions based on a formula. The FAQ clarifies that if the formula does not change, the employer is not considered to have reduced its contribution rate and does not cease to be a grandfathered plan, regardless of any increase in total cost of coverage.

Employers are advised to continue to monitor health reform developments. Should you have questions about this or any aspect of federal health insurance reform, contact your Conner Strong account representative toll free at 1-877-861-3220. For a complete list of Legislative Updates issued by Conner Strong, visit our online [Resource Center](#).

This Legislative Update is provided for general informational purposes only and is not intended to be legal advice. Readers are urged to contact an attorney for legal advice or assistance.



connerstrong.com



877-861-3220



news@connerstrong.com



Change My Preferences



INSURANCE | RISK MANAGEMENT | EMPLOYEE BENEFITS



[Click here to change your email preferences or unsubscribe from all communication.](#)