

Patient Protection and Affordable Care Act (PPACA; the “Reform Act”)

Update #2: Dependents to Age 26 (as of 04.14.2010)

Background

- all group health plans that provide dependent coverage must cover children to age 19, and the vast majority of plans extend that coverage to either age 23 or 25 for dependent children who are enrolled as full-time students in an accredited college or university.
- in 2009, NYS passed what’s known as the “age 29” law, which extended coverage limits on fully insured plans to include adult children up to age 30. *(Please refer to our 2009 release for details on the NYS law.)*
- the Reform Act includes a provision that requires all fully insured and self-insured group health plans that provide dependent coverage to extend coverage to adult children up to age 26.

Impact on Group Health Plans

Since New York’s “age 29” law does not apply to **self-insured** plans, these plans will be subject to the Reform Act’s rules and deadlines.

However, the impact of the Reform Act changes on **fully insured** plans is unknown at this time. Typically -- when Federal and State laws address the same issue -- the legislation with the broadest application for the enrolled members will take precedence. However, there’s no clear ‘winner’ here (broader application is noted in bold type):

Definition/Provision	NYS “Age 29”	PPACA
<i>Mandatory for?</i>	Fully insured plans	Fully insured and self insured plans
<i>Maximum coverage age?</i>	Up to age 30	Up to age 26
<i>Must be a FT student if age 19+?</i>	No	No
<i>Must be financially dependent on the insured parent for support?</i>	No	No
<i>Residency requirement?</i>	Yes -- must “live, work or reside” in NYS or carrier’s service (network) area	None
<i>Can the dependent be married?</i>	No	Yes (but the dependent’s spouse and child/children are not eligible for coverage under the extension)
<i>Federal income tax exemption applies to pre-tax premium payments?</i>	No	Yes
<i>Special re-enrollment rights for dependents who previously lost coverage under the parent’s plan?</i>	Yes	Unclear at this time

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Definition/Provision	NYS “Age 29”	PPACA
<i>Other coverage exclusions?</i>	Yes. Dependent cannot be eligible for other coverage through their own employer, or for Medicare or Medicaid	Yes. Dependent cannot be eligible for other coverage through their own employer <i>(the impact on the dependent if he/she is also eligible for Medicare or Medicaid is unclear at this time)</i>

In simplest terms, the two different rule sets cannot co-exist under the same fully insured group health plan. That would create an environment in which the parent/dependent could choose the most favorable terms of each law based on the dependent’s individual circumstances *at a given point in time*, which would be unsustainable from both an administrative and a risk (underwriting) perspective.

Looking Ahead

We are awaiting additional guidance regarding fully-insured plans in New York State from both the responsible Federal agencies and the NYS Insurance Department. Pending that clarification:

- for existing plans, the PPACA-mandated coverage extension will become effective on the first anniversary/renewal date after September 23, 2010. In other words:
 - ☑ October 1, 2010 for plans with an October renewal date
 - ☑ January 1, 2011 for calendar year plans
 - ☑ July 1, 2011 for July-through-June plans
 - ☑ September 1, 2011 for September-through-August plans
- for brand new plans written on/after October 1, 2010, the coverage extension will apply *immediately* (i.e., at plan inception, not at the next renewal).
- dependent eligibility rules for all group health plans will eventually be re-written

We’re also awaiting Federal guidance on the impact of Medicare/Medicaid eligibility, and details on special re-enrollment rights, under the Reform Act.

One other observation...the eventual removal of the ‘full-time college student’ qualifier for dependents 19 and older will complicate dependent eligibility verification processes.

We will provide a revised Update as soon as we have additional information to report. Please call/email your Benetech Account Executive if you have questions regarding this Update. We are also building a “Reform Act FAQ”, and welcome your questions in writing.

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