

Anthem Limits Small-Group Renewals to Non-Grandfathered Plans

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Anthem Blue Cross, one of the largest California group and individual insurers, has announced that effective October 1, 2011 it will only renew small group policies (2 – 50 employees) for employers that do not claim “grandfathered” status for purposes of many changes under PPACA. This will mean that small group plans insured with Anthem Blue Cross will have to “map” their coverage to a new policy with another carrier, in order to avoid loss of grandfathered status. (“Mapping” relief is described in [amended interim final grandfathering regulations](#) issued in November 2010).

Many grandfathered group health plans – small group or otherwise – have adopted such status in order to remain exempt from nondiscrimination rules that apply to insured group health plans for the first time under PPACA. Nondiscrimination rules – which generally prohibit plan provisions that favor “highly compensated individuals” -were to go into effect on January 1, 2011 for calendar year plans and are to be modeled on the nondiscrimination rules that have always applied to self-funded group health plans. However, the IRS has suspended enforcement of nondiscrimination rules for insured arrangements until it can issue regulations that describe the standards plans must satisfy. While it is hoped that the IRS regulations will describe design “safe harbors” that automatically meet nondiscrimination requirements, there is no guarantee that such guidance will be available before October of this year.

This puts small group plans insured by Anthem Blue Cross in a difficult place if they want to maintain “discriminatory” plan designs – i.e., those that provide any accelerated eligibility or more favorable coverage terms to “highly compensated individuals” – a group that includes 10% or more shareholders, as well as the top 25% of employees ranked by pay.

In order to remain grandfathered, employers will need to locate another carrier whose terms of coverage are virtually identical to Anthem Blue Cross’s small group product. Carriers may charge the employer more for such coverage than they are paying to Anthem Blue Cross – and employers cannot pass the cost increases on to employees without losing grandfathered status. Employers for whom the price squeeze is too much will have to relinquish grandfathered status and offer benefits on equal terms to non-highly compensated and highly compensated groups, alike. This could prove unaffordable for many employers in sectors such as hospitality and retail, which often limit group health coverage to administrative or management employees.

Anthem Blue Cross’s announcement – attached below – gives several reasons for abandoning the grandfathered small group market, including lack of employer interest in maintaining grandfathered plans, the administrative complexity of offering grandfathered and non-grandfathered coverage options, cost efficiencies available for a more homogeneous client base, and similar moves by other insurers. Blue Shield of California last year announced that it would not offer grandfathering to new small group plans or to large group plans on standard policies, retaining the option only for highly customized insured plans.

[News Flash-Grandfathering](#)