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Legal Advice for Health Plans

HEALTH LAW ALERT
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Student Health Insurers Must Phase Out Annual Limits

Individual Medical Loss Ratio Requirements to Apply

Today the Centers for Medicare and Medicaid Services ("CMS") formally published a final rule that limits the extent to which issuers of student health insurance may impose annual limits on essential health benefits prior to January 1, 2014 and prohibits such limits altogether for policy years after that date. Specifically, student health insurance policies issued prior to September 23, 2012 may contain annual limits on essential health benefits of $100,000 (or more); policies issued on or after that date, but before January 1, 2014, may contain annual limits of $500,000 (or more). (See table on next page). Beginning on January 1, 2014, student health insurance policies, like other individual policies, will be prohibited from imposing an annual dollar limit on essential health benefits.

Although CMS will require insurers to subject student health insurance coverage to the Medical Loss Ratio standards (including the rebate requirements), the Rule published today creates what CMS calls a "glide path" to ease implementation of those standards to this type of coverage. Specifically, no loss ratio requirements apply to student insurance business prior to 2013 and a relaxed standard applies in 2013. Under this relaxed standard, insurers may multiply the numerator of their medical loss ratio calculation (incurred claims plus quality improvement expenses) by 1.15. Practically speaking, this means the minimum loss ratio for student health insurers in 2013 is about 70%—an easier standard to meet than the 80% required for other individual insurance. Beginning in 2014, however, student health insurers will be required either to meet the loss ratio standard for other individual insurance (80%) or pay rebates. But, insurers will aggregate student health insurance coverage separately from other individual coverage and, rather than aggregating coverage by State (as required for other individual coverage), insurers will aggregate student coverage nationwide.

Click here (or see the "**Resources**" page at tbixbylaw.com) to see the final Student Health Insurance Rule incorporated into my compilation of Selected Federal Health Insurance Provisions (*see* first line under "**Compiled Rules**"). Note that additional changes will be made to these rules by the end of the month as a result of other rule changes published by the Department of Health and Human Services.

The final rule is published at 77 *Federal Register* 16453 (March 21, 2012). The Rule's provisions related to Minimum Loss Ratios are effective on January 1, 2013; other provisions are effective for policy years beginning on or after July 1, 2012.

Affordable Care Act Provisions Generally Apply. Under the final Rule, provisions of the Affordable Care Act generally will apply to student health insurance coverage. Indeed, other than the exemptions described above, the only special treatment that student health insurance receives is treatment as an association for purposes of guaranteed availability and guaranteed renewability under the Public Health Service Act. Thus, an insurer is not required to make student health insurance coverage available to an individual, unless s/he is enrolled at an institution of higher education with which the insurer contracts and the insurer is not required to renew coverage for an individual who is no longer a student at that educational institution.

CMS did explain, however, that student health insurance could comply with some Affordable Care Act requirements without dramatically changing how they do business. For example, student health insurers may contract with student health centers to provide the preventive services the Affordable Care Act requires to be provided without out-of-pocket costs. The final Rule clarifies that "student administrative health fees," which students typically pay with tuition irrespective of whether (or how often) they use student health centers, are not out-of-pocket expenses for purposes of preventive care under the Affordable Care Act Rules. Similarly, student health insurers may designate providers at a student health center as network providers for purposes of complying with the Affordable Care Act's free-choice-of provider requirements under Public Health Service Act § 2719A (42 U.S.C. § 300gg-19a) and 45 C.F.R. § 147.138.

Notice of Annual Limits. Although the proposed rule would have required student health insurance issuers to provide students (and their dependents) notice explaining that the coverage does not meet all of the Affordable Care Act requirements, the final Rule eliminates that requirement for issuers that meet the annual dollar limits for individual health insurance coverage ($1.25 million for coverage issued prior to September 23, 2012 and $2 million for coverage issued prior to January 1, 2014). Insurers that apply lower annual limits

Restrictions on Annual Dollar Limits

	Annual Limits Cannot be Less Than:	
Policies issued:	**For Student Coverage**	**For Other Individual Coverage**
Prior to 9/23/2012:	$100,000	$1,250,000
On or after 9/23/2012 But before 1/1/2014:	$500,000	$2,000,000
On or after 1/1/2014:	*Annual limits will be prohibited altogether.*	

to student insurance policies ($100,000 for coverage issued prior to September 23, 2012 and $500,000 for coverage issued prior to January 1, 2014) will be required to furnish notices that explain the lower annual limits. In addition, the notices must explain that a student may be eligible for coverage under his/her parents' health coverage if s/he is under age 26. The notice must be "prominently displayed in clear, conspicuous 14-point bold type on the front of the insurance policy or certificate and in any other plan materials summarizing the terms of coverage (such as a summary description document)."

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For more information, please contact Tom Bixby at (608) 661-4310 or TBixby@tbixbylaw.com

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