



*Submitted electronically*

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-9923-NC  
P.O. Box 8016  
Baltimore, MD 21244-8016

Thank you for the opportunity to provide comments on the issues surrounding grandfathered plans in the group market. These plans provide valuable coverage options for many consumers and business owners. While the RFI focuses on the group market, the issues are similar in the individual market and we will take the opportunity to discuss both in these comments.

The Council for Affordable Health Coverage (CAHC) is a broad-based alliance with a singular focus: bringing down the cost of health care for all Americans. Our membership represents a broad range of interests – organizations representing small and large employers, manufacturers, retailers, insurers, patient groups, and physician organizations. As a result, these comments reflect the positions of CAHC, but may not necessarily reflect the individual views of all members.

Since at least the early 1990's, states have protected consumers and business owners from plan cancellation through guaranteed renewability provisions in state laws, and, in 1997, HIPAA duplicated the approach in federal law. As a result, consumers had assurances that once they bought coverage, they could keep it. Unfortunately, the ACA has made that much more difficult with overly restrictive guaranteed availability rules. This was more so based on interpretations from the prior administration that made it more difficult for insurers to maintain coverage for consumers in grandfather plans.

As you note in the RFI, the number and percentage of consumers in grandfathered policies continues to fall. In the individual market, some of that is explained by the natural churn of the market. Most consumers only stay in the individual market for less than 5 years. Employers on the other hand may keep their coverage longer. Consumers and employers have kept their grandfathered plans for a reason. In some cases, it might be the grandfathered plan is much more affordable than a similar ACA plan. In other cases, the grandfathered plan may include broader provider networks or benefits that are no longer available in the individual or group health insurance market. As a result, for many consumers keeping their grandfathered plan is an affordability and access necessity.

For those purchasing coverage in in the individual health insurance market, affordability is a particularly important issue. It has been 5 years since the effective date of most ACA provisions in 2014, and the family circumstances for many individuals has changed. The compounded medical inflation in the interim has also changed the circumstances surrounding the cost sharing assumptions in the plan. This means that both consumers and insurers are facing pricing pressures in the individual health insurance market. If our shared goal is to ensure continued access to affordable health insurance coverage, it is important both for insurers and consumers that any new rules add flexibility in the individual market. Consumers should be allowed to change plans to any

grandfathered plans offered by the same insurance company group. Similarly, insurers should have additional flexibility to make plan design changes that will allow the insurer to continue to offer coverage to their customers in grandfathered plans. These actions will ensure that consumers will be able to afford to keep their coverage.

In the group market, the issues are more complicated. Many employers have continued to maintain their grandfather plan status, despite the fact that the Obama administration issued rules that not only limited plan design changes but also required insurers to track employer contributions to premium. Many of the employers who have kept grandfathered or grandmothere health plan status are in the small group market. Small employers do not have the plan design flexibility large employers have post-ACA. Similar to the individual market, small employers have limited benefit design options, including mandates to purchase the same metal tiers and coverage of essential health benefits required in the individual market. This means that small employer grandfathered or grandmothere plans may offer a better choice of benefits that actually meet their employee's needs, but these businesses cannot opt into another grandfathered or grandmothere plan. They are stuck.

In order to assist employers in maintaining coverage, grandfathered plans need more flexibility. This flexibility is necessary for the employer and for the insurer to making grandfathered plans available to employers. The current regulatory structure includes significant reporting requirements and limits that do not reflect market needs. The insurer, for example, must maintain records on each employer's premium contribution rate to employee coverage which means the same plan may be grandfathered for one employer and not another. The rules also contain numerous limits on changes to co-pays, deductibles and other cost sharing methods. These limits are too restrictive and make it difficult for the employer to maintain their grandfathered status and keep their benefit plan.

CAHC appreciates your careful consideration of our comments. We stand ready to serve as a resource to you in ensuring that choices are maximized for employers, their workers and families.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel White". The signature is fluid and cursive, with the first name "Joel" being more prominent than the last name "White".

Joel White  
President  
Council for Affordable Health Coverage