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- Policy & Procedures...?

*DAVID K. YOUNG CONSULTING*  
**TRENDS**

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**NEWS & TRENDS**

**FOR THE CLIENTS**

**& FRIENDS OF**

**DAVID K. YOUNG,  
MPA, CEBS**

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**RULE ON "GRANDFATHERED  
STATUS" REVERSED**

On June 17th, the Departments of Health and Human Services, Labor, and the Treasury (the Departments) issued the "grandfather" regulation. The regulation addresses how health plans can retain a "grandfathered" exemption from certain new requirements, helps protect Americans' ability to keep their current plan if they like it.

The grandfather regulation includes a number of rules for determining when changes to a health plan cause the plan to lose its grandfathered status. For example,

plans could lose their grandfather status if they choose to make certain significant changes that reduce benefits or increase costs to consumers.

The recent amendment modifies one aspect of the original regulation. Previously, one of the ways an employer group health plan could lose its grandfather status was if the employer changed issuers - switching from one insurance company to another. The original regulation only allowed self-funded plans to change third-party administrators without neces-

sarily losing their grandfathered plan status. A recent amendment now allows all group health plans to switch insurance companies and shop for the same coverage at a lower cost while maintaining their grandfathered status, so long as the structure of the coverage doesn't violate one of the other rules for maintaining grandfathered plan status.

**What does this mean for you?**

*(Continued... on page 3)*

**RETIREMENT PLAN LIMITS FOR 2011 COMPARED TO PREVIOUS CALENDAR YEARS**

**Chart of Selected Limits**

401k Plan Limits for Plan Year	2011	2010	2009	2008	2007	2006	2005
401k Elective Deferrals	\$16,500	\$16,500	\$16,500	\$15,500	\$15,500	\$15,000	\$14,000
Annual Defined Contribution Limit	\$49,000	\$49,000	\$49,000	\$46,000	\$45,000	\$44,000	\$42,000
Annual Compensation Limit	\$245,000	\$245,000	\$245,000	\$230,000	\$225,000	\$220,000	\$210,000
Catch-Up Contribution Limit	\$5,500	\$5,500	\$5,500	\$5,000	\$5,000	\$5,000	\$4,000
Highly Compensated Employees	\$110,000	\$110,000	\$110,000	\$105,000	\$100,000	\$100,000	\$95,000
<b>Non-401k Related Limits</b>							
403(b)/457 Elective Deferrals	\$16,500	\$16,500	\$16,500	\$15,500	\$15,500	\$15,000	\$14,000
SIMPLE Employee Deferrals	\$11,500	\$11,500	\$11,500	\$10,500	\$10,500	\$10,000	\$10,000
SIMPLE Catch-Up Deferral	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,000
SEP Minimum Compensation	\$550	\$550	\$550	\$500	\$500	\$450	\$450
SEP Annual Compensation Limit	\$245,000	\$245,000	\$245,000	\$230,000	\$225,000	\$220,000	\$210,000
Social Security Wage Base	\$106,800	\$106,800	\$106,800	\$102,000	\$97,500	\$94,200	\$90,000

**1099 STATEMENTS REQUIREMENT MAY BE REPEALED**

Senate Finance Committee Chairman Max Baucus, D-Mont., said recently that he will introduce legislation to repeal a requirement that employers furnish 1099 statements if they do more than \$600 in business with a corporate vendor.

Small employers have complained that the reporting burden of the

health care reform law requirement, which is scheduled to go into effect in 2012, is too great. In a statement, Sen. Baucus said he has "heard small business loud and clear and I am responding to their concerns."

The senator, who said he would introduce his bill soon, also said he would look for other ways to improve tax

compliance and keep taxes low, but did not provide any specifics. The reporting requirement would raise about \$2 billion a year, according to estimates by the congressional Joint Committee on Taxation.

Previously, President Barack Obama said he would consider changes to the 1099 reporting requirement.

## DOL FINAL FEE DISCLOSURE RULES EXPLAINED

On October 14, 2010 the Department of Labor (DOL) issued long-expected final regulations requiring the disclosure of uniform fees. This includes basic information about plan fees and expenses to all participants and beneficiaries of 401(k) and other defined contribution plans who direct the investment of assets in their individual accounts. A key requirement under the final rule is that investment-related information must be furnished to participants or beneficiaries in a comparative chart so that participants can make an "apples to apples" comparison among the plan's investment options. The final rule requires new disclosures of plan fees and expenses related to general plan administrative services as well as information related to investments under the plan, including several categories of core information about each investment option in addition to information about fees and expenses. The rule broadly provides that the investment of plan assets is a fiduciary act governed by the fiduciary standards of ERISA, requiring plan fiduciaries to act prudently and solely in the interest of the plan's participants and beneficiaries. Where participants are assigned responsibility to direct their investments, the final rule states that plan administrators must provide participants enough information concerning investment options, fees and expenses so that the participants can make informed decisions regarding the management of their accounts.

The following information must be given to participants on or before the date they can first direct their investments and then again annually thereafter:

1. General plan information, including an explanation of the structure and mechanics of the plan, that covers how to give investment instructions, a current list of the plan's investment options and a description of any "brokerage windows" or similar arrangements that enable the selection of investments beyond those designated by the plan.
2. Administrative expense information, including an explanation of any fees and expenses for general plan administrative services that may be charged to or deducted from all individual accounts. Examples include fees and expenses for legal, accounting, and recordkeeping services.
3. Individual expense information, including an explanation of any fees and expenses that may be charged to or deducted from the individual account of a specific participant or beneficiary based on the actions taken by that person, such as fees for plan loans and for processing domestic relations orders. Participants must receive statements at least quarterly, showing the dollar amount of the plan-related fees and expenses (whether "administrative" or "individual") actually charged to or deducted from their individual accounts, along with a description of the services for

which the charge or deduction was made.

The following information must be furnished to participants or beneficiaries on or before the date they can first direct their investments and then again annually thereafter:

1. Performance data that includes specific information about historical investment performance, such as one, five, and ten year returns for investment options that do not have fixed rates of returns.
2. Benchmark information that includes the name and returns of an appropriate broad-based securities market index over one, five, and ten year periods (matching the Performance Data periods.)
3. Fee and expense information for investment options that do not have a fixed rate of return, that includes the total annual operating expenses expressed as both a percentage of assets and as a dollar amount for each \$1,000 invested.
4. An internet web site address that to provide participants additional information about the investment options.
5. A general glossary of terms to assist participants and beneficiaries in understanding the plan's investment options, or an internet web site address that provides access to such a glossary.

The final rule will become applicable for plan years after 11/1/2011.

The purpose of the grandfather regulation

*Continued from page 1.....Grandfathered*

is to help people keep existing health plans that are working for them. The amendment furthers that goal by allowing employers to offer the same level of coverage through a new issuer and remain grandfathered, as long as the change in issuer does not result in significant cost increases, a reduction in benefits, or other changes described in the original grandfather rule.

### Why did HHS, Labor and Treasury make this change?

The Departments received many comments on the provision in the original grandfather rule stating that a group health plan would relinquish grandfather status if it changed issuers or policies. This change was made in response to those comments for the following reasons:

There are circumstances where a group health plan may need to make administrative changes that don't affect the benefits or costs of a plan. For example, an insurer may stop offering coverage in a market. Or a company may change hands. In those cases, the employer can maintain grandfathered status for their employees' plan under the amendment.

Comments expressed concern that the original provision could have the inadvertent effect of interfering with health care cost containment. If an employer has to stay with the same insurance company to keep the benefits of having a grandfathered plan, the insurance company has undue and unfair leverage in negotiating the price of coverage renew-

als. Allowing employers to shop around can help keep costs down while ensuring individuals can keep the coverage they have.

Some employers buy coverage from insurance companies; others "self-insure," meaning that they pay claims themselves but usually hire a third-party administrator (TPA) to handle the paperwork. Usually only large companies can self-insure. Before this amendment, self-insured plans could change the company hired to handle the paperwork without losing grandfathered status as long as the benefits and costs of the plan stayed the same, while an employer that just changed insurance companies while maintaining the same benefits under their plan could not do so. Under this amendment, all employers have the flexibility to keep their grandfathered plan but change insurance company or third-party administrator.

### What types of plans does this affect?

The amendment affects insured group health plans.

A change of issuers in the individual market would still result in the loss of grandfathered status.

### How many plans will this affect?

The Departments expect that the amendment will result in a small increase in the number of plans retaining their grandfathered status relative to the estimates made in the grandfathering regulation.

The Departments did not produce a range of estimates for the number of affected entities given considerable uncertainty about the response to the amendment.

## HEALTH TAX CREDIT

Under the new health care reform law small business owners are eligible to receive a tax credit for providing health care coverage, which is retroactive to the beginning of the year.

While employees of large companies expect to have health care coverage as a fringe benefit, it can be a rarity for those working in small businesses. As has been widely publicized, companies with fewer than 100 workers employ about 43 million Americans. The new tax incentive potentially will help the small employers provide major medical health coverage to people currently working in small businesses who have no health insurance. Although it's too early to tell, the credits also could help those running or starting new businesses. Assuming that premiums don't skyrocket, it may be easier to attract and retain employees.

### How Much the Tax Credit Can Save Employers

Tax credits based on worker's salary and cost of insurance

#### Less expensive insurance

Annual Wage	Annual Premium	Tax Credit	Net Cost*
\$25,000	\$4,000	\$1,400	\$2,600
\$35,000	\$4,000	\$800	\$3,300
\$45,000	\$4,000	\$250	\$3,750

#### More expensive insurance

Annual Wage	Annual Premium	Tax Credit	Net Cost*
\$25,000	\$6,000	\$2,100	\$3,900
\$35,000	\$6,000	\$1,200	\$4,750
\$45,000	\$6,000	\$400	\$5,600

\*to employer

Source: Craig Larsen/IRS