

# REFORM *Update*

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The Affordable Care Act (ACA) recently came under intense media scrutiny when individuals and small groups started receiving termination notices for their health policies. Many policies are being canceled because they fail to meet the essential health benefit requirements. The attention centered on President Obama's promise that people could keep their current medical plan. This has clearly not been the case.

In response to the negative press, the President indicated that he will allow these canceled plans to be continued for an additional year, even though they do not meet the requirements of the ACA. In response to the President's announcement, the Centers for Medicare and Medicaid Service (CMS) sent a bulletin to all state insurance commissioners. The bulletin specified that states may allow health insurance carriers to continue health coverage that would otherwise be terminated due to the ACA's requirements. Carriers may therefore allow affected individuals and small businesses to re-enroll in coverage that was set to be terminated.

Health insurance carriers are not permitted to ignore all ACA requirements for these canceled plans. A specific transitional policy will apply to coverage renewed for policy years between January 1, 2014 and October 1, 2014. Individual and small group plans with policy years that fall between the specified dates will have a one-year delay in the application of the following requirements:

- **Section 2701** – Fair health insurance premiums. This section addresses the new rating rules that limit rate factors to age, tobacco use and geography.
- **Section 2702** – Guaranteed availability of coverage. This section addresses the requirement to offer coverage to all eligible applicants and to allow a special enrollment for mid-year change events.
- **Section 2703** – Guaranteed renewability of coverage. This section addresses the requirement that carriers must renew plans each year unless they exit the market.
- **Section 2704** – Prohibitions on pre-existing condition limitations and other discrimination related to health conditions. This section only applies to individual health plans. It addresses tobacco surcharges.
- **Section 2705** – Prohibits discrimination against individual plan participants and beneficiaries. This section contains the rules addressing health-contingent wellness programs.
- **Section 2706** – Relates to non-discrimination in health care. This section addresses the requirement that a health plan cannot discriminate against a health care provider acting within the scope of his or her license.
- **Section 2707** – Concerns the requirements related to essential health benefits. This section includes the requirement to cover essential health benefits in the individual and small group markets. It also includes the maximum out-of-pocket rules and the

requirement to accumulate all out-of-pocket costs. Small group deductible limits are also included in this section.

- **Section 2709** – Requirement to cover individuals participating in approved clinical trials.

Specific conditions must be met to reinstate cancelled plans:

1. The coverage must have been in effect on October 1, 2013.
2. The health insurance carrier must send a notice to all individuals and small groups that received a cancellation letter or termination notice. This notice must inform them of the following:
  - a. Any changes in coverage options available to them.
  - b. Which specific ACA requirements, noted above, will not be reflected in the coverage if they choose to continue their previously canceled coverage.
  - c. Their potential right to enroll in a qualified health plan offered through their state's Health Insurance Marketplace and the possibility of qualifying for financial assistance.
  - d. Instructions on how to access coverage through the Marketplace.
  - e. Their right to enroll in coverage outside the Marketplace that meets the ACA requirements noted above.

The transitional policy excludes grandfathered health plans since they are not subject to most market reforms.

This transitional policy does not apply to all plans that are being canceled. Mini-medical or limited benefit plans will not be offered after the policy year ending on or after December 31, 2013. These policies violate the ACA's annual dollar limitations.

The President's decision to allow a one-year delay of specific ACA requirements will now be addressed at the state level. Each state insurance commissioner will need to approve the transition. If the state commissioner does approve the continuation of these policies, then each insurance carrier will need to determine if they will allow the coverage to be continued.

Currently this delay is allowed for one year. The bulletin indicates that this issue will be revisited by the Obama administration at some point in 2014.

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