

# Health Plans: What's Next?

Drinker Biddle's  
Health Care Reform Update  
for Employee Benefit Plans

## Health Care Reform Bill Requires Group Health Plans to Cover "Adult Child" Dependents

The Patient Protection and Affordable Care Act signed by President Obama March 23, 2010, and later amended by the Health Care and Education Reconciliation Act of 2010 (together, the Health Care Reform Law), contains a provision that requires employer-sponsored group health plans that offer dependent coverage for children to make such coverage available to an adult child, until the child turns 26 years of age. This requirement applies for plan years beginning on or after September 23, 2010, (January 1, 2011 for a calendar year plan), subject to the rules and exceptions described below.

*Drinker Biddle Note: The mandate to offer dependent coverage to adult children requires group health plans to extend coverage until a child turns 26 years of age. Some sources have mistakenly stated that the age limit is 27, possibly confusing the coverage mandate with the rules modifying the tax treatment of health coverage, which are described below.*

**Grandfathered Group Health Plans.** The Health Care Reform Law provides a special rule for employer-sponsored group health plans in existence as of March 23, 2010. Initially, these "grandfathered plans" are not required to implement the adult child dependent coverage requirement in its entirety. Instead, a grandfathered plan must offer adult child dependent coverage only to adult children under the age of 26 who are not eligible to enroll in any other employer-sponsored health plan.

This special rule for grandfathered plans applies until plan years beginning on or after January 1, 2014. For plan years beginning on or after January 1, 2014, all employer-sponsored group health plans that offer dependent coverage must comply with the adult child coverage requirement.

*Drinker Biddle Note: If your company sponsors a grandfathered plan, you must, at a minimum, follow the special rule described above. The law does not prevent an employer from offering adult child dependent coverage to all eligible adult children up to age 26, however. As a plan sponsor, you may wish to consider this option if you anticipate that implementing the special rule will significantly increase the cost and complexity of plan administration, for example, by requiring a plan sponsor to verify that each adult child who seeks to enroll in your plan has no other option to enroll in an employer-sponsored health plan.*

**Collective Bargaining Agreements.** If an employer maintains health insurance coverage pursuant to a collective bargaining agreement (CBA) that was ratified before March 23, 2010, the adult child coverage requirement will not apply to the health insurance coverage until the date on which the last of any CBA relating to the coverage terminates. A CBA may be amended to incorporate other requirements under the Health Care Reform Law, without affecting a "termination" that would require the health insurance coverage to implement the adult child coverage requirement.

*Drinker Biddle Note: Under the terms of the law, this effect on health coverage provided under CBAs applies only to insured health plans, while self-insured plans under CBAs remain subject to the general grandfathering provisions. Guidance is needed to resolve this inconsistency.*

**Tax Treatment of Adult Child Coverage.** The Health Care Reform Law does not change the definition of “dependent” that is used to determine the tax treatment of health coverage. The law does clarify, however, that an individual will not be taxed on the cost of employer-provided adult child health coverage in tax years up to and including the year in which the child reaches age 26, provided that the covered adult child is (1) a son, daughter, stepson or stepdaughter of the individual; (2) a legally adopted (or placed for adoption) child of the individual; or (3) an eligible foster child of the individual (*i.e.*, placed with the

taxpayer by an authorized placement agency or by judgment, decree or court order).

**Interaction with State Insurance Laws.** An insured employer-sponsored group health plan (including an HMO) may already be subject to an adult child dependent coverage requirement under applicable state insurance law.

*Drinker Biddle Note: Approximately 30 states currently require group health plans to extend coverage to adult child dependents, with age limits ranging from 19 to 31 years of age.*

## Employee Benefits & Executive Compensation Practice Group

If you have any questions, please contact any member of our Employee Benefits & Executive Compensation Practice Group listed below.

**Kathleen O'Connor Adams**  
(312) 569-1306  
Kathleen.Adams@dbr.com

**Gary D. Ammon**  
(215) 988-2981  
Gary.Ammon@dbr.com

**Mark M. Brown**  
(215) 988-2768  
Mark.Brown@dbr.com

**Barbara A. Cronin**  
(312) 569-1297  
Barbara.Cronin@dbr.com

**Mona Ghude**  
(215) 988-1165  
Mona.Ghude@dbr.com

**Megan Glunz Horton**  
(312) 569-1322  
Megan.Horton@dbr.com

**Sharon L. Klingelsmith**  
(215) 988-2661  
Sharon.Klingelsmith@dbr.com

**Christine M. Kong**  
(212) 248-3152  
Christine.Kong@dbr.com

**David Levin**  
(202) 230-5181  
David.Levin@dbr.com

**Howard J. Levine**  
(312) 569-1304  
Howard.Levine@dbr.com

**Benjamin S. Lupin**  
(215) 988-2905  
Benjamin.Lupin@dbr.com

**Joyce L. Meyer**  
(312) 569-1305  
Joyce.Meyer@dbr.com

**Sarah Bassler Millar**  
(312) 569-1295  
Sarah.Millar@dbr.com

**Joan M. Neri**  
(973) 549-7393  
Joan.Neri@dbr.com

**Monica A. Novak**  
(312) 569-1298  
Monica.Novak@dbr.com

**Cristin M. Obsitnik**  
(312) 569-1303  
Cristin.Obsitnik@dbr.com

**Jean D. Renshaw**  
(610) 993-2259  
Jean.Renshaw@dbr.com

**Michael D. Rosenbaum**  
(312) 569-1308  
Michael.Rosenbaum@dbr.com

**Dawn E. Sellstrom**  
(312) 569-1324  
Dawn.Sellstrom@dbr.com

**Lori L. Shannon**  
(312) 569-1311  
Lori.Shannon@dbr.com

**Mark J. Simons**  
(610) 993-2247  
Mark.Simons@dbr.com

**Joshua J. Waldbeser**  
(312) 569-1317  
Joshua.Waldbeser@dbr.com

**Holly C. Kopack Willobee**  
(312) 569-1312  
Holly.Willobee@dbr.com

**David L. Wolfe**  
(312) 569-1313  
David.Wolfe@dbr.com

**Daniel R. Zoller**  
(312) 569-1307  
Daniel.Zoller@dbr.com



Employee Benefits & Executive Compensation Practice Group

[www.drinkerbiddle.com](http://www.drinkerbiddle.com)

CALIFORNIA | DELAWARE | ILLINOIS | NEW JERSEY | NEW YORK | PENNSYLVANIA | WASHINGTON DC | WISCONSIN

© 2009 Drinker Biddle & Reath LLP | All rights reserved | A Delaware limited liability partnership | Promotional Material 000000  
One Logan Square, Ste. 2000 | Philadelphia, PA 19103-6996 | (215) 988-2700 | (215) 988-2757 fax  
Jonathan I. Epstein and Edward A. Gramigna, Jr., partners in charge of the Princeton and Florham Park, N.J., offices, respectively.

**Disclaimer Required by IRS Rules of Practice:**

Any discussion of tax matters contained herein is not intended or written to be used, and cannot be used, for the purpose of avoiding any penalties that may be imposed under Federal tax laws.