Dependents to age 26 provision of health care reform
Considerations for next renewal on or after September 23, 2010 through January 1, 2014

Federal health care reform requires plans to cover dependents to the age of 26. This overview is designed to help you understand the implications of this provision and how to implement it.

Beginning in May 2010, HealthPartners extended fully insured coverage to age 26 for any dependents who would lose coverage by turning age 25. This change was implemented early to prevent young adults from losing coverage due to age before this provision goes into effect for all groups on or after September 23, 2010, as groups renew.

Requirements on first renewal on or after September 23, 2010

Q: Do I have to cover dependent children to age 26?
A: If you cover dependent children under your group contract, you will need to include dependents up to age 26 beginning on your first renewal that occurs on or after September 23, 2010.

Currently:
- Fully insured Minnesota plans are required to cover dependents to age 25.
- Wisconsin put an eligibility mandate into effect as of October 1, 2009 as groups renew, which covers all dependents regardless of student status, up to age 27. This mandate applies to all fully insured groups and public entities that are self-insured.

Recent federal rules state that for dependent children, a plan or issuer may not take into account any of the following when defining a dependent child:
- Financial dependency
- Residency with the participant/primary subscriber
- Student status
- Employment status
- Eligibility for other coverage (except grandfathered group plans through 2014, which may limit dependent child eligibility to those not eligible for other group coverage)
- Marital status

Grandchildren (children of a covered child) and spouses of a dependent (spouse of a covered child) do not have to be covered.
Q: What do I need to do to comply with this provision?
A: You must hold a 30-day enrollment period, beginning no later than the first day of the first plan year beginning on or after September 23, 2010, meaning that:

- If you do not normally have an open enrollment, you need to hold a 30-day enrollment period for dependents up to age 26.
- If your open enrollment period is generally shorter than 30 days, we recommend that you extend it to a full 30 days this year to ensure that you have met the requirements of this law.

You will need to clearly communicate this enrollment opportunity in writing to your employees. As an employer, you are required to notify your employees of this new eligibility. A model notice from the Department of Labor is posted on healthpartners.com/employer.

Q: What documentation is required to support dependent status?
A: HealthPartners does not verify dependent status for any dependents (such as spouses, etc.).

Q: Can HealthPartners still verify eligibility for a class of dependents (i.e. grandchildren)?
A: We cannot verify student status for a class of dependents. You can have an eligibility restriction in your member contract or Summary Plan Description, but it is your responsibility to do the verification. HealthPartners will have the maximum age of 26 for all dependents in our system. We can do maximum age notifications, but you will need to do any other eligibility checks.

Self-insured dental groups can continue to have HealthPartners verify student status for all dependents between ages19 and 25.

Q: What if the covered parent does not want to keep their adult dependent children on their plan?
A: They are not required to by health care reform. There is no requirement on the parent to include their adult children as dependents on their plan if they do not wish to do so.

Q: What about the “imputed income” situation?
A: In the past, there were inconsistencies between the federal tax definition of a dependent and the definition under insurance plans. In cases where dependents were covered outside of the tax definition, there were income tax implications to employee. The new federal
health care reform law resolved those tax inconsistencies for dependents (not for domestic partners or their children).

The 2010 Minnesota legislature did not enact legislation incorporating any of the changes to the Internal Revenue Code contained in health care reform. In the absence of such legislation, Minnesota law includes in the definition of “wages” for purposes of income tax withholding both the fair market value of insurance benefits provided to non-dependent adult children of employees and the amount of adoption benefits paid in excess of $12,170 per child. However, until the Minnesota legislature has had the opportunity to fully address adoption of the provisions contained in health care reform, the Department of Revenue will not require employers to withhold taxes from those federally exempt employer provided benefits.

Wisconsin has not passed conforming language; therefore, there is still an imputed income requirement at the state level in Wisconsin. We do not know if that change will be made in the next Wisconsin legislative session, but until then, the value of health plan coverage provided to a child who is not a dependent under the old section 105(b) definition of dependent is taxable income for purposes of Wisconsin income tax and is subject to Wisconsin tax withholding requirements. An employer should be imputing income for the value of this coverage to the employee and making appropriate tax withholding. Guidance on this issue is available from the Wisconsin Department of Revenue at http://www.revenue.wi.gov/taxpro/news/100511.html.

Q: What is the termination date for coverage for a dependent turning 26?
A: Coverage is terminated at the end of the month in which the dependent turns 26 years old. For example, if the dependents’ birthday is May 10, his/her coverage ends on May 31.

Q: When can dependents who previously aged off the plan be added back on to fully insured plans?
A: For large fully insured groups (>50 employees):

- If the dependent comes on at open enrollment, there are no pre-existing condition exclusions.
- If the dependent comes on as a late entrant after renewal, but before they turn 25, and the group allows late entrants, there could be pre-existing condition exclusions depending on whether the member had prior continuous coverage and how long they were covered.

For small fully insured groups (<50 employees):

- If the dependent comes on at renewal, they would have pre-existing condition exclusions for up to 12 months with time given for prior coverage
- If the dependent comes on as a late entrant after the renewal, they could get up to an 18-month pre-existing condition exclusion depending on the amount of their prior coverage.
Q: Does the dependent have to be a tax dependent in order to stay on the plan?

A: With this new law, dependents can stay on their parents’ plan to age 26 regardless of student status or marital status without federal tax consequences to the parent. We do not have an official definition of “dependent” from the federal government, but we anticipate rulemaking in early May. Please refer to your tax advisor and/or wait until early May for an official federal definition.