



## Agencies Issue Final Grandfathered Group Health Plan Regulations

The Department of Labor, Department of Health and Human Services, and the IRS (collectively, the “Agencies”) have issued final regulations providing greater flexibility to plan sponsors that wish to retain their group health plans’ “grandfathered” status under the Affordable Care Act (“ACA”). The final regulations are substantially unchanged from the earlier proposed regulations.

### Law

The ACA contains many provisions affecting group health plan design and operation. However, some of these provisions do not apply to group health plans while they are in “grandfathered” status. (Generally, this term applies to plans that were in existence when the ACA was enacted and have not experienced certain specified events.) Among other things, grandfathered health plans are generally not subject to the ACA requirement to cover certain preventive services without cost sharing or to the annual limitation on cost sharing.

Grandfathered status can be lost if certain changes occur. These changes include: (i) increases in cost-sharing above specified thresholds; (ii) decreases in employer contributions; and (iii) elimination of substantially all benefits to diagnose or treat a condition.

### Regulations


The regulations clarify that a grandfathered group health plan that is also a high-deductible health plan (“HDHP”) will maintain its grandfathered status, even if the plan makes cost-sharing increases to the extent necessary to meet the HDHP requirements that would otherwise exceed the regular cost-sharing increase limit. This enables participants and beneficiaries to maintain existing coverage and remain eligible to make health savings account contributions.


In addition, the new regulations provide an alternative method of measuring permitted increases in cost-sharing. Previous regulations permitted increases in fixed-amount cost-sharing requirements (such as copayments, deductibles, and out-of-pocket maximums) that do not exceed certain thresholds, determined by reference to a Consumer Price Index measure of medical inflation. Under the new final regulations, increases are determined by reference to this measure or by reference to the most recently published “premium adjustment percentage,” whichever is greater. The premium adjustment percentage is published annually (by HHS) and reflects the cumulative, historic growth from 2013

through the preceding calendar year in premiums for private health insurance, excluding Medigap and property and casualty insurance. According to the Agencies, "This alternate inflation measure would better account for changes in the costs of health coverage over time."

The regulations can be found at: <https://www.federalregister.gov/documents/2020/12/15/2020-27498/grandfathered-group-health-plans-and-grandfathered-group-health-insurance-coverage>

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

 [@wagner-law-group](https://www.linkedin.com/company/wagner-law-group)

 [fb.com/WagnerLawGroup](https://www.facebook.com/WagnerLawGroup)

**Boynton Beach:**

1880 N. Congress Avenue, Suite 200  
Boynton Beach, FL 33426  
Tel: (561) 293-3590

**New York:**

200 Park Avenue, Suite 1700  
New York, NY 10166  
Tel: (212) 338-5159

**St. Louis:**

1099 Milwaukee Street, Suite 140  
St. Louis, MO 63122  
Tel: (314) 236-0065

**Boston:**

99 Summer Street, 13th Floor  
Boston, MA 02110  
Tel: (617) 357-5200

**Chicago:**


180 N. LaSalle Street, Suite 3200  
Chicago, IL 60601  
Tel: (847) 990-9034


**San Diego:**

8677 Villa La Jolla Drive, Suite 888  
San Diego, CA 92037  
Tel: (619) 232-8702

**Tampa:**

101 East Kennedy Boulevard, Suite 2140  
Tampa, FL 33602  
Tel: (813) 603-2959

 [@wagnerlawgroup](https://twitter.com/wagnerlawgroup)

 [@wagnerlawgroup](https://www.youtube.com/wagnerlawgroup)

**Lincoln, MA:**

55 Old Bedford Road, Suite 303  
Lincoln, MA 01773  
Tel: (617) 532-8080

**San Francisco:**

315 Montgomery Street, Suite 900  
San Francisco, CA 94104  
Tel: (415) 625-0002

**Washington, D.C.:**

800 Connecticut Avenue, N.W., Suite 810  
Washington, D.C. 20006  
Tel: (202) 969-2800

This document is protected by copyright. Material appearing herein may not be reproduced with permission. This document is provided for informational purposes only by The Wagner Law Group to clients and others who may be interested in the subject matter, and may not be relied upon as specific legal advice. This material is not to be construed as legal advice or legal opinions on specific facts. Under the Rules of the Supreme Judicial Court of Massachusetts, this material may be considered advertising.