

# Affordable Care Act (ACA) and Student Health Insurance Plans

## Frequently Asked Questions

### **Is my plan affected; how does ACA define “student health insurance coverage”?**

Not all health insurance coverage offered to students is included in the definition of “student health insurance coverage.” The final regulations define student health insurance coverage as a type of individual health insurance coverage for ACA purposes if it is provided pursuant to a written agreement between an institution of higher education (as defined in the Higher Education Act of 1965) and a health insurance issuer, and provided to students enrolled in that institution and their dependents, that meet the following conditions:

- Does not make health insurance coverage available other than in connection with enrollment as a student (or a dependent of a student) in the institution;
- Does not condition eligibility for the health insurance coverage on any health-status – related factor (i.e., health status, physical medical conditions, mental illness, claims experience, receipt of health care, medical history, genetic information, evidence of insurability, and disability) relating to a student (or a dependent of a student); and
- Meets any additional requirements that may be imposed under state law.

### **Is my student health insurance plan subject to ACA’s guaranteed availability and guaranteed renewability requirements?**

No. The final regulations exempt student health insurance plans from the requirements that enrollees be able to renew or continue the coverage at their option. Student health insurance plans are not required to be available for non-students or to enrollees who have ceased to be students.

### **Can my student health insurance plan include lifetime dollar limits?**

No. Student health insurance plans may not establish lifetime limits on the dollar value of “essential health benefits” for any enrollee. This prohibition is effective for policy years beginning on or after July 1, 2012.

### **Can my student health insurance plan contain annual dollar limits on essential health benefits?**

Yes, but there is a specified transition period to 2014 when no annual limits will be allowed. Prior to 2014, policies are not required to cover essential health benefits; but if they are included in a student health insurance plan, the ACA restricts the maximum annual limit a policy may impose.

Annual limits for “essential health benefits” are completely prohibited for policy years beginning on or after January 1, 2014. In addition, student health insurance plans must cover all essential health benefits effective January 1, 2014.

For these purposes, “essential health benefits” include:

- Ambulatory patient services;
- Emergency services;
- Hospitalization;
- Maternity and newborn care;

- Mental health and substance use disorder services, including behavioral health treatment;
- Prescription drugs;
- Rehabilitative and habilitative services and devices;
- Laboratory services;
- Preventive and wellness services and chronic disease management; and
- Pediatric services, including oral and vision care.

**NOTE: Pepperdine’s student plan is underwritten with these changes already effective, ahead of the ACA scheduled timeline.**

**Can my student health insurance plan “rescind” coverage?**

No – except in very limited cases. Student health insurance plans may not rescind the coverage of an enrollee once such enrollee has coverage, unless the enrollee (or a person seeking coverage on behalf of the enrollee)

- performs an act, practice, or omission that constitutes fraud, or
- makes an intentional misrepresentation of material fact.

The student health insurance plan must provide at least 30 days advance written notice to each enrollee who would be affected before coverage may be rescinded. For this purpose, a “rescission” is a cancellation or discontinuance of coverage that has *retroactive* effect. However, a cancellation or discontinuance is not a “rescission” if:

- the cancellation or discontinuance of coverage has only *prospective* effect; or
- the cancellation or discontinuance of coverage is effective *retroactively* to the extent it is attributable to a failure to timely pay required premiums or contributions towards the cost of coverage.

**Does my student health insurance plan have to cover contraceptives?**

Yes. Effective for policy years beginning on or after August 1, 2012, student health insurance plans must provide (without cost sharing) access to all FDA-approved contraceptive methods, sterilization procedures, patient education and counseling for women with “reproductive capacity” as prescribed by a provider.

*Religious Employer Exemption:*

Religious employers are exempt from the mandate to cover contraceptives for their employees. Recently issued proposed regulations simplify the definition of religious employer to mean any nonprofit entity referenced in Sections 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code (e.g. churches, synagogues, and other houses of worship, their integrated auxiliaries and conventions or associations of churches, etc.). Religiously-affiliated nonprofit employers such as universities and hospitals are not considered religious employers for this purpose.

**Does my student health insurance plan have to extend health coverage to adult dependents?**

Yes. If your student health insurance plan offers dependent coverage of children, it must continue to make such coverage available for an adult child until the child turns age 26 years of age.

**Can my student health insurance plan impose a preexisting condition exclusion?**

No. Student health insurance plans may not impose any pre-existing condition exclusions on individuals enrolled in coverage who are under 19 years of age, including applicants for

enrollment, who are under 19 years of age. This requirement would be effective for policy years beginning on or after July 1, 2012.

Student health insurance plans are prohibited from imposing pre-existing condition exclusions on any enrollees for policy years starting on or after January 1, 2014 (regardless of the enrollees' age).

For this purpose, a "pre-existing condition exclusion" means a limitation or exclusion of benefits (including a denial of coverage) based on the fact that the condition was present before the effective date of coverage (or if coverage is denied, the date of the denial) under the coverage, whether or not any medical advice, diagnosis, care or treatment was recommended or received prior to such date. A "pre-existing condition exclusion" also includes any limitation or exclusion of benefits (including a denial of coverage) applicable to an individual as a result of information relating to an individual's health status before such individual's effective date of coverage (or if coverage is denied, the date of the denial) under the coverage, such as a condition identified as a result of a pre-enrollment questionnaire or physical examination given to the individual, or review of medical records relating to the pre-enrollment period.

### **Will my student health insurance plan be subject to the minimum medical loss ratio requirement?**

Yes, subject to a transition period not applicable to other individual coverage. The final regulations confirm that the new medical loss ratio ("MLR") requirement (80% of premiums must be spent on clinical services or activities to improve health care quality) apply to student health insurance plans beginning January 1, 2013. However, insurers are allowed to use "credibility adjustments" for 2013 (but not subsequent years), which will effectively increase the amount of expenses that are allowed before a rebate is owed for 2013. The final regulations also provide that the experience for student coverage is to be reported separately from other individual market coverage and that student coverage will be aggregated on a national basis for purposes of determining the MLR.

### **Do any special rules or exemptions under the ACA apply to policies for international students?**

No. The preamble to the final regulations clarify that all student health insurance must comply with the applicable provisions of the ACA without regard to the citizenship of the student insured. International students with a J-1 visa are also required to carry a minimum level of health insurance coverage by the State Department, and those requirements are not eliminated as a result of the application of ACA to such policies. In the preamble to the final regulations, HHS confirms that the ACA and State Department rules do not conflict. Note that insurance sold to international students attending only one or two semesters will most likely qualify as short-term limited duration insurance coverage exempt from the ACA.

### **Why is my student health insurance plan exempt from certain ACA requirements?**

Given the unique characteristics of student health insurance plans and ACA's rule of construction for such plans, the final regulations specify that a limited number of ACA requirements are inapplicable to student health insurance plans. The ACA rule of construction for student health insurance plans provides that *"nothing...[in ACA] shall be construed to prohibit an institution of higher education (as such term is defined for purposes of the Higher Education Act of 1965) from offering a student health insurance plan, to the extent that such requirement is otherwise permitted under applicable Federal, State or local law."*

HHS interprets this ACA provision to mean that if particular ACA requirements would, as a practical matter, have the effect of prohibiting a college or university from offering a student health plan otherwise permitted under Federal, State or local law, such requirements would be inapplicable. HHS has identified several provisions in ACA that would have this effect and several others that might have this effect, including ACA's guaranteed availability and guaranteed renewability requirements.

### **What are the individual coverage mandates? Will my student health insurance plan satisfy the individual mandate?**

Starting in 2014, individuals (unless excluded or exempt) will be required to obtain "minimum essential health coverage" for themselves and their dependents or will have to pay a penalty.

"Minimum essential health coverage" includes:

- Medicare, Medicaid, a Children's Health Insurance Program, TRICARE and veteran's health care program;
- Health insurance coverage offered in a state's individual market; or
- Other coverage designated by HHS. *In proposed regulations issued February 1, 2013, HHS designated self-funded student health plans as "minimum essential health coverage" for purposes of satisfying the individual coverage mandate. (see 78 Federal Register 7348, 7361 (February 1, 2013) available at the following link: [www.gpo.gov/fdsys/pkg/FR-2013-02-01/pdf/2013-02139.pdf](http://www.gpo.gov/fdsys/pkg/FR-2013-02-01/pdf/2013-02139.pdf)) These proposed regulations also designate foreign health coverage, refugee medical assistance, Medicare advantage plans and AmeriCorps coverage as minimum essential coverage.*

*HHS has not yet designated what other coverage will be considered "minimum essential health coverage."*

Individuals in any of the following groups are excluded from the individual coverage mandates:

- Individuals who are not lawfully in the United States;
- Individuals who are incarcerated;
- Religious conscience objectors; or
- Members of a health care sharing ministry.

International students are not excluded as a group.

Similarly, individuals in any of the following groups are subject to the individual coverage mandates, but exempt from paying the penalty if the mandate is not satisfied:

- Individuals who have "unaffordable coverage" (based on household income and required contributions for coverage);
- Individuals who have income below the threshold for filing a tax return;
- Individuals who are members of an Indian tribe;
- An individual whose first coverage gap experience of a calendar year lasts less than 3 months; or
- Individuals who apply for and receive a hardship exemption from HHS.

Student health insurance plans are designated as a type of individual market coverage that we expect will satisfy "minimum essential health coverage" if the student health insurance plan meets certain ACA requirements.