

EMPLOYER HEALTH BENEFITS

2013 ANNUAL SURVEY

Grandfathered
Health Plans

SECTION

13

GRANDFATHERED HEALTH PLANS

THE AFFORDABLE CARE ACT (ACA) IS BRINGING ABOUT A NUMBER OF MEANINGFUL CHANGES FOR THE AMERICAN HEALTH CARE SYSTEM, INCLUDING FOR THE EMPLOYER-SPONSORED HEALTH INSURANCE MARKET. WHILE MANY OF THE MOST SIGNIFICANT PROVISIONS OF THE ACA WILL BEGIN IN 2014, SOME ARE ALREADY IN EFFECT (FOR MORE INFORMATION, SEE THE HEALTH REFORM IMPLEMENTATION TIMELINE AT WWW.KFF.ORG/INTERACTIVE/IMPLEMENTATION-TIMELINE/). THE ACA EXEMPTS CERTAIN HEALTH PLANS THAT WERE IN EFFECT WHEN THE LAW WAS PASSED, REFERRED TO AS GRANDFATHERED PLANS, FROM SOME OF THE NEW STANDARDS IN THE LAW; THESE INCLUDE REQUIREMENTS TO COVER PREVENTIVE BENEFITS WITHOUT COST SHARING, HAVE AN EXTERNAL APPEALS PROCESS, OR COMPLY WITH THE NEW BENEFIT AND RATING PROVISIONS IN THE SMALL GROUP MARKET. OVERALL, 54% OF FIRMS OFFERING HEALTH BENEFITS HAVE AT LEAST ONE HEALTH PLAN THAT IS A GRANDFATHERED PLAN IN 2013.

ALTHOUGH SOME IMPORTANT PROVISIONS OF THE ACA WILL BECOME EFFECTIVE SOMETIME IN 2014, WE GENERALLY DID NOT ASK EMPLOYERS IN THE 2013 SURVEY HOW THEY PLANNED TO RESPOND TO THE NEW REQUIREMENTS. IN MANY CASES, RULES WERE NOT FINALIZED UNTIL AFTER THE INTERVIEW PROCESS BEGAN, SO EMPLOYERS DID NOT HAVE ALL THE INFORMATION NECESSARY TO FORMULATE PROPER RESPONSES. WE WILL TRACK EMPLOYER RESPONSES TO CHANGES IN THE MARKET IN FUTURE SURVEYS.

GRANDFATHERING

For the employer-sponsored market, health plans that were in place when the ACA was enacted (March 2010) can be grandfathered health plans. Interim final rules released by the Department of Health and Human Services on June 17, 2010, and amended on November 17, 2010, stipulate that firms cannot significantly change cost sharing, benefits, employer contributions, or access to coverage in grandfathered plans.¹ New employees can enroll in a grandfathered plan as long as the firm has maintained consecutive enrollment in the plan.

While grandfathered plans are exempted from many of the ACA's new requirements, they must comply with many provisions as they become effective, including: (1) provide a uniform explanation of coverage, (2) report medical loss ratios and provide premium rebates if medical loss ratios are not met, (3) prohibit lifetime and annual limits on essential health benefits, (4) extend dependent coverage to age 26, (5) prohibit health plan rescissions, (6) prohibit waiting periods greater than 90 days, and (7) prohibit coverage exclusions for pre-existing health conditions.² Firms must decide whether to grandfather their insurance

plans, which limits the changes they can make to their plans, or whether to comply with the full set of new health reform requirements.

- ▶ Fifty-four percent of firms offering health benefits have at least one health plan that is a grandfathered plan in 2013 (Exhibit 13.1), similar to the 58% of offering firms with at least one grandfathered plan in 2012, but lower than the 64% in 2011.
- ▶ Worker enrollment in grandfathered plans has decreased, with 36% of covered workers enrolled in a grandfathered health plan in 2013, down from 48% in 2012 and 56% in 2011 (Exhibit 13.3).
- ▶ There are differences in the percentage of covered workers enrolled in grandfathered plans by firm size and region.
 - Fewer covered workers at large firms (200 or more workers) are enrolled in a grandfathered health plan than covered workers at smaller firms (30% vs. 49%).
 - Fewer covered workers in the Northeast region (27%) are enrolled in grandfathered health plans than covered workers in other regions.

NOTES:

¹ *Federal Register*. Vol. 75, No. 116, June 17, 2010, www.gpo.gov/fdsys/pkg/FR-2010-06-17/pdf/2010-14614.pdf, and No. 221, Nov. 17, 2010, <http://edocket.access.gpo.gov/2010/pdf/2010-28861.pdf>.

² United States. Congressional Research Service CRS. *Open CRS*. By Bernadette Fernandez. Grandfathered Health Plans Under the Patient Protection and Affordable Care Act (PPACA), Jan. 3, 2011. http://assets.opencrs.com/rpts/R41166_20110103.pdf.

EXHIBIT 13.1

Percentage of Firms with At Least One Plan Grandfathered Under the Affordable Care Act (ACA), by Size, Region and Industry, 2013

	Percentage of Firms with at Least One Grandfathered Plan
FIRM SIZE	
3–24 Workers	56%
25–49 Workers	52
50–199 Workers	43*
200–999 Workers	44
1,000–4,999 Workers	39*
5,000 or More Workers	30*
All Small Firms (3–199 Workers)	54%*
All Large Firms (200 or More Workers)	43%*
REGION	
Northeast	35%*
Midwest	52
South	63
West	59
INDUSTRY	
Agriculture/Mining/Construction	36%
Manufacturing	51
Transportation/Communications/Utilities	73
Wholesale	69
Retail	19*
Finance	58
Service	57
State/Local Government	49
Health Care	58
ALL FIRMS	54%

SOURCE:

Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2013.

* Estimate is statistically different from estimate for all other firms not in the indicated size, region, or industry ($p < .05$).

Note: For definitions of grandfathered health plans, see the introduction to Section 13.

EXHIBIT 13.2

Percentage of Covered Workers Enrolled in Plans Grandfathered Under the Affordable Care Act (ACA), by Size, Region, and Industry, 2013

	Percentage of Covered Workers in a Grandfathered Health Plan
FIRM SIZE	
3–24 Workers	53%*
25–49 Workers	52*
50–199 Workers	44
200–999 Workers	42
1,000–4,999 Workers	34
5,000 or More Workers	23*
All Small Firms (3–199 Workers)	49%*
All Large Firms (200 or More Workers)	30%*
REGION	
Northeast	27%*
Midwest	31
South	40
West	40
INDUSTRY	
Agriculture/Mining/Construction	41%
Manufacturing	30
Transportation/Communications/Utilities	38
Wholesale	33
Retail	26
Finance	28
Service	45*
State/Local Government	33
Health Care	29
ALL FIRMS	36%

SOURCE:

Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2013.

* Estimate is statistically different from estimate for all other firms not in the indicated size, region, or industry ($p < .05$).

Note: For definitions of grandfathered health plans, see the introduction to Section 13.

EXHIBIT 13.3

Percentage of Covered Workers Enrolled in Plans Grandfathered Under the Affordable Care Act (ACA), by Firm Size, 2011 and 2013

	2011	2012	2013
FIRM SIZE			
3–24 Workers	69%	57%	53%
25–49 Workers	52	45	52
50–199 Workers	63	55	44
200–999 Workers	61	60	42*
1,000–4,999 Workers	54	41*	34
5,000 or More Workers	49	42	23*
All Small Firms (3–199 Workers)	63%	54%*	49%
All Large Firms (200 or More Workers)	53%	46%	30%*
ALL FIRMS	56%	48%*	36%*

SOURCE:

Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2011–2013.

* Estimate is statistically different from estimate from the previous year shown ($p < .05$).

Note: For definitions of grandfathered health plans, see the introduction to Section 13.

