



## What Employers Need to Know Right Now About Health Care Reform

The following is a summary of proposed regulations.  
Some or all of the provisions may change when final rules are issued.

### HIGHLIGHTS OF PROPOSED RULES ON HEALTH INSURANCE MARKET RULES

On Nov. 20, 2012, the Department of Health and Human Services (HHS) issued proposed rules that address a number of health insurance market reforms. The rule is still in the “proposed” stage, which means that there may -- and likely will -- be changes when the final rule is issued.

The proposed rule confirms that nongrandfathered health insurers (whether operating through or outside an exchange) would be prohibited from denying coverage to someone because of a pre-existing condition or other health factor. Individuals generally would be required to purchase coverage during an open enrollment period, with special enrollment periods available following qualifying events. Small employers would be able to purchase coverage throughout the year.

The proposed rule reiterates PPACA’s limits on permissible premium variations for policies in the exchanges and individual and small group markets, providing that premiums may only vary based upon:

- Age (with a maximum 3-to-1 ratio, which is well below the 5-to-1 or 6-to-1 ratio currently in use in some states);
- Tobacco use (with a maximum 1 and ½-to-1 ratio);
- Geographic location; and
- Family size

Other parts of the proposed rule call for a great deal of standardization in implementation of the reforms, including:

- A proposal that rates be set by totaling rates that are calculated separately for each covered individual (although employers would be permitted to either use an average composite rate or a method that charges older employees and smokers the allowable surcharge when determining premium contributions)
- A proposal that all carriers use one-year age bands, with a prescribed age band table, for everyone except children under age 21 and adults over age 63
- A requirement that all individuals enrolled in nongrandfathered small-group plans be considered one risk pool (all those in nongrandfathered individual policies would be in another risk pool, although a state could choose to merge the two pools); this means that different blocks could no longer be considered different risk pools
- Allowing states to identify up to seven geographic regions for rating purposes but requiring that any rating differences between the regions be actuarially justified
- Allowing employer contribution and group participation requirements to reduce adverse selection
- Requiring that all rate increases be submitted to HHS

The proposed rule may be found here: [Health Insurance Market Rules](#)

*Important: This rule is still in the “proposed” stage, and HHS has asked for input on a number of issues. This means there may be a number of changes when the final rule is issued. The public may make suggestions until Dec. 26, 2012, on how the proposed rule should be changed before it is finalized. Employers should view the proposed rule as an indication of how the exchanges and small group market will be regulated beginning in 2014, but need to understand that changes are entirely possible.*

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