

# LEGAL UPDATE

## Final Rule Provides Greater Flexibility for Grandfathered Plans

On Dec. 11, 2020, the Departments of Labor (DOL), Health and Human Services (HHS) and Treasury (Departments) announced a [final rule](#) that provides greater flexibility for grandfathered plans under the Affordable Care Act (ACA).

A grandfathered plan is a group health plan or health insurance coverage that was in existence on March 23, 2010 (the date the ACA was passed), that has not made certain prohibited changes to lose its grandfather status. Grandfathered plans are exempt from certain ACA requirements.

### Overview of the Final Rule

The final rule provides the following additional flexibility for grandfathered plans under the ACA:

- First, the rule clarifies that grandfathered high deductible health plan (HDHP) coverage may **increase fixed-amount cost-sharing requirements, such as deductibles, to the extent necessary to maintain its status as an HDHP** without losing grandfather status.

This provision is intended to ensure that participants and beneficiaries enrolled in that coverage remain eligible to contribute to a health savings account (HSA).

- Second, the final rule provides an **alternative method of measuring permitted increases in fixed-amount cost-sharing** that is intended to allow plans and issuers to better account for changes in the costs of health coverage over time.

This additional flexibility may allow additional plans to maintain their grandfather status, despite certain changes being made to the plan. The Departments intend for these changes to benefit plan participants and beneficiaries, employers, employee organizations and other stakeholders.

### Background of the Final Rule

- The Departments issued a proposed rule on July 15, 2020.
- The proposed rule was issued in response to President Trump's 2017 executive order directing the Departments to mitigate the fiscal burdens of the ACA.
- The final rule adopts the provisions of the proposed rule without making substantive changes.

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