

DEPARTMENT OF HEALTH AND HUMAN SERVICES
45 CFR Parts 144, 147, and 158
CMS-9981-F
RIN 0938-AQ95
Student Health Insurance Coverage

ACTION: Final rule.

SUMMARY: This final rule establishes requirements for student health insurance coverage under the Public Health Service (PHS) Act and the Patient Protection and Affordable Care Act (Affordable Care Act). The final rule defines “student health insurance coverage” as a type of individual health insurance coverage, and specifies that certain PHS Act requirements are inapplicable to this type of individual health insurance coverage. This final rule also amends the medical loss ratio and annual limits requirements for student health insurance coverage under the PHS Act.

Applicability Dates. The amendment to 45 CFR Part 147 applies to student health insurance coverage for policy years beginning on or after July 1, 2012. The amendments to 45 CFR Part 158 apply beginning January 1, 2013, to health insurance issuers offering student health insurance coverage.

The above text is taken from the pre-publication version of the final rule on student health insurance coverage. The document is available in full online at:
http://www.ofr.gov/OFRUpload/OFRData/2012-06359_PL.pdf

UHP Outline of the Final Rule on Student Health Insurance Coverage:

- I. Background**
 - A. Proposed Rule – February 11, 2011

- II. Provisions of the Proposed Rule**
 - A. defines SHPs as a type of individual market health insurance coverage
 - B. exempt from guaranteed availability & guarantee renewability requirements
 - C. Annual Limits: \$100,000 max benefit on Essential Health Benefits (EHBs)ⁱ for plans starting before 9/23/12; \$2M after 9/23/13
 - D. student admin health fees (charged to all students) are NOT considered cost-sharing
 - E. notice required in 14 point bold font on all printed plan materials
 - F. applies to plans beginning on/after 1/1/12

- III. Analysis of and Responses to Public Comments**
 - A. Definition of Student Health Insurance Coverage – no change
 - i. consortia of universities and State boards of regents can be considered an institution of higher learning
 - ii. this rule does not apply to High Schools as they do not fit the definition of an institution of higher learning

- iii. SHPs in general are not short-term limited duration plans, but some plans sold to international students are short-term limited duration
 - iv. PHS does not provide authority for HHS to regulate self-funded plans
- B. Exemptions from PHSA – annual limits modified; contraceptive coverage for religious schools
 - i. Annual dollar limit restrictions modified:
 - 1. \$100,000 for policy years beginning on or after July 1, 2012, but prior to September 23, 2012
 - 2. \$500,000 for policy years beginning on or after September 23, 2012, but before January 1, 2014
 - 3. meet individual plan requirements (unlimited EHB) for policy years beginning on/after January 1, 2014
 - ii. Student Health Centers & Student Administrative Health Fees – no change
 - 1. SHIPs can coordinate with SHCs to ensure the provision of preventive services – “An issuer can arrange for a student health center to serve as its in-network provider where students could receive preventive services without cost-sharing”.
 - 2. Student administrative health fees charged to all students are NOT cost-sharing.
 - 3. “The proposed rule does not prevent a student health insurance plan from designating providers at a student health center as its in-network providers and allowing students to choose from among those providers...provided that the centers have sufficient provider capacity and range of services available to support this designation.
 - a. only acceptable at health centers that have the necessary capacity are adequately equipped
 - iii. Grandfather Status – no change
 - 1. HHS does “not have the legal discretion to alter the generally applicable grandfather rules”
 - iv. Contraceptive Coverage – one year exemption for religious universities
 - 1. “If the college or university and its student health insurance plan satisfy the terms applicable to an employer and its group health plan...under the guidelines released on February 10, 2012...the college or university and the issuer of the student health insurance coverage will also be subject to the temporary one-year enforcement safe harbor, and contraceptive benefits will not have to be provided in its student health insurance plan until policy years beginning on or after August 1, 2013.”
 - 2. After that point, the plan is to have issuers of SHPs at those schools to “offer contraceptive coverage without cost-sharing directly to the student health insurance plan enrollees” with no additional charge for the contraceptive coverage.
- C. Notice – modified/simplified
 - i. notice must be provided in all materials summarizing the coverage
 - ii. removed notice regarding guaranteed availability and guaranteed renewability
 - iii. uses “health care reform law” instead of PPACA
 - iv. add language advising student of parent plan option if under 26
 - v. the notice requirement sunsets in 2014 when annual limits for SHPs are consistent with other individual health insurance coverage

- D. Applicability
 - i. Foreign Students studying in US
 - 1. Plans issued in a State are subject to health care reform requirements regardless of the individuals being insured.
 - 2. There are some plans, however, that may appropriately be sold on a short-term limited duration basis to foreign students, and therefore not subject to the individual coverage requirements.
 - ii. State vs. Federal Regulation – no change
 - 1. States may impose additional requirements, but must still comply with Federal guidelines
- E. Issuer Use of Premium Revenue: Reporting and Rebate Requirements
 - i. MLR Calculation
 - 1. “HHS does not have the authority to change the MLR percentage standard for plans. HHS does have authority...‘to take into account the special circumstances of smaller plans, different types of plans, and newer plans’ in determining the methodology for calculating an issuer’s MLR.”
 - a. “The calculation of incurred claims and quality improving activities is to be multiplied by 1.15 in 2013...no special treatment is provided in MLR reporting year 2014 and beyond.”
 - 2. SHP claims experience will be reported separately from other individual market coverage as a national (rather than State-by-State) aggregate.
 - 3. “The MLR reporting year for student coverage will be on a calendar year basis, beginning January 1, 2013.”
 - 4. SHPs are subject to the rebate requirement and will issue rebates directly to the student.
- F. Provisions of PHSA Effective in 2014 – will be addressed “with respect to student coverage in conjunction with final regulations concerning the Affordable Insurance Exchanges, the market requirements of the PHS Act, the definition of minimum essential coverage, tax credits for premium assistance, and other 2014 issues.”

IV. Provisions of the Final Regulations: “For the most part, this final rule incorporates the provisions of the proposed rule.” Exceptions are as follows:

- A. Annual Limits – modified phase-in schedule
 - i. \$500,000 for policy years beginning on or after September 23, 2012, but before January 1, 2014
- B. Notice Requirement – streamlined content, added sunset provision
 - i. new model notice language, including parent coverage option up to age 26
 - ii. “the disclosure must be prominently displayed in clear, conspicuous, 14-point bold type”
 - iii. see page 4 of this outline for the model language
- C. MLR
 - i. SHPs subject to 80% MLR requirement
 - ii. 2013 adjustment to numerator
 - iii. aggregated nationally as its own pool; experience reported separately from other non-SHP policies

Notice – Model Language:

"Your student health insurance coverage, offered by [name of health insurance issuer], may not meet the minimum standards required by the health care reform law for the restrictions on annual dollar limits. The annual dollar limits ensure that consumers have sufficient access to medical benefits throughout the annual term of the policy. Restrictions for annual dollar limits for group and individual health insurance coverage are \$1.25 million for policy years before September 23, 2012; and \$2 million for policy years beginning on or after September 23, 2012, but before January 1, 2014. Restrictions for annual dollar limits for student health insurance coverage are \$100,000 for policy years before September 23, 2012, and \$500,000 for policy years beginning on or after September 23, 2012, but before January 1, 2014. Your student health insurance coverage put an annual limit of: [dollar amount] on [which covered benefits – notice should describe all annual limits that apply]. If you have any questions or concerns about this notice, contact [provide contact information for the health insurance issuer]. Be advised that you may be eligible for coverage under a group health plan of a parent's employer or under a parent's individual health insurance policy if you are under the age of 26. Contact the plan administrator of the parent's employer plan or the parent's individual health insurance issuer for more information."

¹ EHB = Essential Health Benefits

Section 1302(b) of the Affordable Care Act defines essential health benefits to "include at least the following general categories and the items and services covered within the categories: 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."