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Group Health Plans and Health Insurance Coverage: Interim Final Rules for Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act

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General Comment

Expansion of Dependent Coverage. Prior to January 1, 2014, 45 CFR 147.140(e)(2) requires a health plan (through PHS 2714) to provide a dependent child coverage up to age 26 if such child is not eligible for an employer-sponsored health plan (as defined in Sect. 5000A(f)(2) of the I.R.C.) other than a grandfathered health plan of a parent.

Without the I.R.C. reference, the regulation seems to exclude from PHS 2714 coverage (prior to January 1, 2014) a dependent who is eligible for employer-based spousal coverage through the spouse's employer. However, taking I.R.C. Sect. 5000A into account, that section refers only to the coverage being offered directly by an employer to the "employee," individually. This is a very narrow employer-employee relationship and seems as though it may narrow the exclusion to only that relationship.

Please clarify whether the pre-January 1, 2014 exclusion for a dependent eligible for other employer-based coverage extends to a dependent eligible for a spouse's employer-based coverage or whether such exclusion only applies to eligibility for employer-based coverage offered by the dependent's own employer.