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Requirements for Group Health Plans and Health Insurance Issuers under the Patient Protection and Affordable Care Act

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Patient Protection and Affordable Care Act: Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, and Patient Protections

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General Comment

We appreciate the departments' July 27 Q and A clarification on pre-existing exclusions for children under age 19. We want to make sure we implement this properly and have a few clarifying questions that we lay out in the given scenario below:

Assume that an insurer that issues individual policies does not issue child only or strictly individual policies, but only coverage that has a primary subscriber and allowable dependents if any. The insurer issues policies on a monthly basis effective the first of the month.

As we interpret Questions 2 and 3 from the July 27 clarification, the insurer could do the following if state law is silent on open enrollment in the individual marketplace and has no other rules. Is this the case? -- The insurer could accept for enrollment each month an adult for coverage effective any given month but that it would only accept a dependent child under age 19 in a discrete open enrollment timeframe established by the plan (once a year or multiple times). For example, an adult primary subscriber and spouse could sign up effective March 1 but their under age 19 children may not be enrolled until January 1 of the following year.

Is it the case that if that insurer offers an individual only policy with no dependents that it could offer coverage monthly to adults age 19 and over but still limit acceptance of those under age 19 to once per year or quarterly via open enrollment?

A last question: we assume that given the new rules on pre-existing conditions that a plan could not offer underwritten coverage to children outside the open enrollment period because that might potentially violate the bar on denial for pre-existing condition?