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GROUP INSURANCE ANALYSTS, INC.

## Excluded Plans and Excepted Benefits

Most of the provisions of the Patient Protection and Affordable Care Act (or health care reform law) amended existing laws. For example, many provisions added language to the Public Health Service Act. The health care reform law often refers to the Public Health Service Act and other laws in defining its scope. The HIPAA portability provisions of the Public Health Service Act define certain “excepted benefits.” These excepted benefits are not within the scope of most of the provisions of the health care reform law. Excepted benefits include:

- Retiree-only plans with no active employees
- Short-term health insurance plans
- Most dental and vision plans
- Long-term care insurance
- Medicare supplement
- Employee assistance plans

The term “excepted benefits” refers to language in the HIPAA portability provisions of the Public Health Service Act. This language excludes certain types of plans from HIPAA regulations. The [glossary on the Department of Labor website](#) defines excepted benefits as:

- Certain benefits are always treated as excepted benefits because they are **not considered health coverage**, such as:
  - Accident only
  - Disability income insurance
  - Workers’ compensation
- Other benefits are treated as excepted benefits if they are **offered separately or are not an integral part of the plan**, including:
  - Limited-scope dental or vision
  - Long-term care benefits
- Moreover, other benefits are treated as excepted benefits if they **are offered separately and not coordinated** with benefits under another group health plan, including:

- Coverage for a specific disease
- Hospital indemnity or other fixed indemnity

Finally, other benefits are treated as excepted benefits if they are **offered as a separate insurance policy and supplemental** to Medicare, Armed Forces health care coverage, or (in very limited circumstances) group health plan coverage.

In general, the health care reform law does not apply to excepted benefits. Certain benefits are always treated as excepted benefits because they are not considered health coverage. Other benefits are treated as excepted benefits if they are offered separately or are not an integral part of the health plan.

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## Questions and answers

### Q. Are specialty plans affected by the provisions within health care reform?

Most of our dental and vision plans are an “excepted benefit” under HIPAA. These plans are an excepted benefit if all of the following conditions are met: The coverage is offered pursuant to a separate policy, certificate or contract; the participant has the right to elect not to receive the coverage; and a participant who elects the coverage must pay an additional premium or contribution.

If dental or vision is built into the basic health plan, it is **not** exempt.

Note: Our company has made a business decision that specialty products such as vision, dental and life insurance products are included in the extension of coverage to age 26.

### Q. Why are retiree-only plans excluded from health care reform?

The exclusion for retiree-only plans is based on an exemption for plans that cover fewer than two current employees. By definition, retiree-only plans only cover retirees (and sometimes their dependents), so there are no current employees in the plan. While HHS has encouraged states to adopt a similar position, states may adopt a different interpretation for issuers of retiree-only plans and nonfederal governmental retiree-only plans.

### Q. Are student health plans subject to health care reform?

We will apply health care reform requirements for individual policies to student health plans unless they meet definition of a short-term plan. Short-term plans are not subject to the health care reform law. We will reevaluate this decision if HHS clarifies the treatment of student health plans.

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