

# EXPERT UPDATE



EXPECT AN EXPERT

## New FAQs Released For ACA Market Reform Provisions

By Shari Herrle, Director of Compliance

Direction on implementing services affected by the market reform provisions of the Affordable Care Act [is provided in FAQs jointly issued by the Departments of Labor \(DOL\), Health and Human Services \(HHS\), and the Treasury.](#)

The FAQs directly address the following services:

### ***Lactation counseling and equipment (Q 1-5)***

Non-grandfathered (NGF) health plans must cover lactation counseling without cost sharing for:

- Out-of-network lactation counseling as a preventive service, if the plan has no network access.
- All providers, such as nurses, rendering services within the scope of their licenses.
- Outpatient services and coverage for breastfeeding equipment. This coverage cannot be limited to a specified period of time.

### ***Weight Management (Q 6)***

NGF health plans are not permitted to exclude coverage for weight management services for adult obesity and are required to provide screening for obesity without cost sharing.

Adults with a body mass index of 30kg/m<sup>2</sup> or higher must be entitled to intensive, multicomponent behavioral interventions for weight management.

### ***Colonoscopy consultation (Q 7)***

If the attending provider determines a pre-procedure consultation is medically necessary, NGF health plans may not impose cost sharing for the consultation.

*Please note that the information contained in this document is designed to provide authoritative and accurate information, in regard to the subject matter covered. However, it is not provided as legal or tax advice and no representation is made as to the sufficiency for your specific company's needs. This document should be reviewed by your legal counsel or tax consultant before use.*

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### ***Colonoscopy pathology exam (Q 8)***

NGF health plans must cover the pathology exam on any polyp biopsy discovered during the screening without cost sharing.

### ***Religious objection to providing contraceptive services (Q 9)***

An NGF ERISA-covered self-insured plan can achieve religious accommodation through two methods:

1. Complete the [EBSA Form 720](#); or
2. Provide appropriate notice of the objection to HHS. A CMS model notice is available for plans to use on the [CMS website](#).

### ***Coverage for BRCA testing (Q 10)***

NGF health plans must provide genetic counseling and testing for BRCA mutations (when indicated) for women found to be at increased risk.

### ***Wellness programs (Q 11)***

The DOL's wellness regulations apply to group health plans that provide non-financial rewards, like gift cards and sports gear, when an individual meets a certain health standard.

### ***Mental Health disclosures (Q 12)***

The criteria for making medical necessity mental health or substance abuse determinations must be disclosed to plan participants when requested, regardless of whether the plan asserts the information is proprietary or has commercial value.

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The information we have provided above is a brief summary of the FAQs. Please refer to the DOL website for more detail or reach out to our compliance team or your HBI consultant if you have additional questions about these FAQs.

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