

**From:** Mayhew, James A. (CMS/CCIIO) [<mailto:James.Mayhew@cms.hhs.gov>]  
**Sent:** Monday, May 13, 2013 5:41 AM  
**To:** Miller, Teresa (CMS/CCIIO); Berendt, Beth (OIC)  
**Cc:** Dreier, Julia M. (CMS/CCIIO); Fabian-Marks, Johanna K. (CMS/CCIIO)  
**Subject:** RE: Urgent request for Assistance regarding Association Health Plans and Grandfathering status

Hi Beth-

As indicated in the letter, the grandfathering status of an employer with association coverage is not determined by the timing of the master contract between the issuer and the association but rather is determined by when the employer obtained the coverage with the association. Only if the association health plan is determined to be one ERISA plan (which is infrequent) would the timing of the master contract determine the grandfathering status.

Hope this is helpful. Let me know if you have any more questions.

Jim Mayhew  
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**From:** Miller, Teresa (CMS/CCIIO)  
**Sent:** Sunday, May 12, 2013 10:00 AM  
**To:** Mayhew, James A. (CMS/CCIIO)  
**Cc:** Dreier, Julia M. (CMS/CCIIO); Fabian-Marks, Johanna K. (CMS/CCIIO)  
**Subject:** Fw: Urgent request for Assistance regarding Association Health Plans and Grandfathering status

Jim,

Can we answer Beth's question re: grandfathering and association plans? If so, would you reach out to her? Thanks!

Teresa

**From:** Berendt, Beth (OIC) [<mailto:BethB@OIC.WA.GOV>]  
**Sent:** Saturday, May 11, 2013 10:48 AM  
**To:** Miller, Teresa (CMS/CCIIO)  
**Cc:** DeLeon, Marta (ATG) <[MartaD@ATG.WA.GOV](mailto:MartaD@ATG.WA.GOV)>; Odiorne, Jim (OIC) <[JimO@OIC.WA.GOV](mailto:JimO@OIC.WA.GOV)>; Brown, Charles (OIC) <[CharlesB@OIC.WA.GOV](mailto:CharlesB@OIC.WA.GOV)>; Williams, Brendan (OIC) <[BrendanW@oic.wa.gov](mailto:BrendanW@oic.wa.gov)>; Jones, Meg (OIC) <[MegJ@OIC.WA.GOV](mailto:MegJ@OIC.WA.GOV)>  
**Subject:** Urgent request for Assistance regarding Association Health Plans and Grandfathering status

Good Morning Teresa:

We are struggling with how to transition our Association Health Plans in 2014. We greatly appreciate your recent assistance by providing guidance about the possible pre-emption if certain legislation should pass. But must impose upon you once again.

On October 11, 2010 the Commissioner sent the attached letter to HHS, and although we had several telephone conversations with Kevin Lucia, Jim Mayhew and others, the OIC did not receive a formal response to our questions about Grandfathering.

We are preparing to issue transition guidance that for all AHPs that are not considered to be an "employer" under 29 USCS 1002 (5) that they must transition their membership to ACA compliant products at their first plan renewal date on or after January 1, 2014. As a result the lack of a response to our question is causing us difficulty.

Although we are still in the final stages of establishing our agency position, and we continue to conduct research into the matter, any guidance you can provide by responding to the question dealing with "Grandfathering" beginning with the third

paragraph of the attached letter would be helpful. This question assumes, of course, that nothing has occurred to trigger the loss of the grandfathered status.

Thank you again for all of your assistance during these challenging times.

Beth

**Beth Berendt**

Deputy Commissioner

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