

What You Need to Know About Health Care Reform Compliance

Presenters



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- Recognized as an expert in a variety of employee benefits issues and executive compensation matters, including qualified and non-qualified retirement plans, “rabbi” trusts, all forms of deferred compensation, and welfare benefit arrangements.
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From the Beginning

- Legislation
 - Patient Protection and Affordable Care Act
 - Health Care and Education Affordability Reconciliation Act of 2010
- Main Objectives & Consequences
 - Increase transparency and efficiency of the health care system
 - Require health care coverage for individuals
 - Provide premium subsidies for lower income individuals
 - Impose new taxes, responsibilities, and penalties on employers and others

Mandatory Coverage for Individuals

- Effective 2014
- Most U.S. residents must have minimum “essential health benefits” or pay a penalty
- Penalty:
 - \$95 or 1% of income in 2014
 - \$695 or 2.5% of income in 2016

Premium Assistance

- Small employer subsidies
- Employees eligible if income between 100% and 400% of federal poverty level
- Cost sharing subsidy for those with income below 200%

American Health Benefit Exchanges

- Operational in 2014
- Offer Bronze, Silver, Gold, Platinum, and Catastrophic Plan coverage to individuals
- Out of pocket costs reduced for lower income individuals
- SHOP

Insurance Market

- Guaranteed Issue
- Guaranteed Renewability
- High Risk Pool
- Rating only by:
 - Family structure
 - Community rating value of benefits
 - Age
 - Smoking

Employer Group Health Plans – Future Consideration

- Employers with more than 50 employees who do not offer minimum essential health coverage will be assessed a fee of \$2,000 per employee, with an exception for the first 30 employees
- If contributions are in excess of 9.8% of income, the employer will be assessed a penalty of \$3,000 for each employee who receives a premium tax credit, with an exception for the first 30 employees
- Maximum 90 day waiting period
- Employers with more than 200 employees must automatically enroll their employees in the employer-sponsored group health plan

Employer Group Health Plans – Future Consideration (cont.)

- Employer must offer a “free choice” voucher
- Health care flexible spending account plans will be limited to \$2,500
- Notification requirements
 - Uniform summary of benefits
 - W-2 reporting
 - Individual coverage report

Where Are We Now?

- It's now been several months since the Health Care Reform Act was signed into law
- By now you're all pretty familiar with the basics, and the provisions that required your immediate attention
- You should have already:
 - determined if your plan has grandfathered status
 - extended coverage to adult children to age 26
 - removed lifetime limits from your plans
 - held special enrollment periods for those who had aged out or previously hit lifetime limits
 - made required plan document and benefit changes

What's Next

- What do you need to consider for the next 12-18 months?
 - Required notices
 - Maintaining grandfathered status
 - Internal and external review procedures
 - FSA limits
 - Retiree coverage subsidy
 - W2 reporting
 - Auto enrollments
 - Benefit summaries
 - Advance notice of material changes

Required Notices

- Grandfathered Health Plan Notice
- Special Enrollment for Adult Children
- Lifetime Limits Notice
- Patient Protection Notice

Grandfathered Status

- You may have GF status for 2011, but does it make sense going forward?
- Can it realistically be maintained—cost to provide coverage will likely go up as vendors raise costs, so employer will need to balance appropriate cost sharing with GF status benefits
- Reminder of how GF status is lost
 - New contract or policy
 - Increase in cost sharing
 - Decrease in employer contribution
 - New annual limits

Provisions Applicable to All Plans

- Coverage for adult children
- Restrictions on annual and lifetime benefit limits
- Elimination of pre-existing condition exclusions
- Limitation of rescissions

Provisions Applicable to Non-Grandfathered Plans

- Provide free preventative care services
- Participants may select primary care providers, including pediatric care providers, and OB/GYNs
- Emergency care services without prior authorization
- Insured group health plans will be subject to nondiscrimination rules
- Internal and External Appeals Process

Internal and External Reviews

- Internal
 - Comply with DOL's current claims requirements plus six new requirements including:
 - Urgent care claims resolved within 24 hours
 - Plan must hire independent decision makers
 - Must provide “culturally and linguistically appropriate” notices
- External
 - Comply with state external review process for insured plans, or
 - Comply with procedures in new DOL Technical Release

FSA Changes

- OTC drugs other than insulin can no longer be reimbursed through account-based plans without a prescription as of 1/1/11
 - Plan year and grace period do not change effective date
 - Applies only to medicines and drugs
- HC FSAs limited to \$2,500 effective January 1, 2013
- Plan Amendments

Retiree Coverage Subsidy

- Employers receive subsidy for continuing to provide retiree medical coverage in light of Medicare Part D
- Impact that elimination of reduction for expenses related to subsidy will have
 - Now (need to reflect this on the books)
 - Future (need to decide whether to maintain retiree medical coverage)

W2 Reporting

- What it is...
- Dodged a bullet (we have a reprieve)

Auto enrollments

- General rule
- When does it apply
- How will it be applied

Uniform Explanation of Coverage

- Standards to be developed by HHS within 12 months of enactment – March 23, 2011
 - No Longer than four pages
 - Culturally and linguistically appropriate
 - Applies to plans March 23, 2012

Notice of Modifications

- 60-day advance notice for any material modification in:
 - Terms of plan
 - Coverage involved

Penalties

- \$110 per day penalty for failure to provide compliant SPD
- Potential back benefits & court fees if SPD found to be lacking
- HIPAA Penalties:
 - \$100 to \$50,000 based on number and nature of violations
 - Maximum penalty \$1,500,000 per year
 - Separate violation occurs on each day of non-compliance

Administrative Concerns

- What do you need to do to be ready?
 - Internal administrative procedures
 - Working with your vendors

Conclusion – Action Steps for Employers

- ☑ Determine if you should keep grandfathered status
- ☑ Assess plan with regards to new requirements, including claims review procedures
- ☑ Prepare for:
 - Required open enrollments and automatic enrollments
 - New required communication materials and notices
 - Revisions of summary plan descriptions and new summaries of material modifications
 - Keep Alert! Government agencies will be issuing additional regulations and revising those that have already been issued