

Employer health plan issues for 2010-11

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On March 23, President Barack Obama signed the Patient Protection and Affordable Care Act into law. A reconciliation bill was finalized March 26. The new health care law introduces a number of employer health plan changes that become effective Jan. 1 for calendar year plans.

In this article, we will primarily address those issues that will affect employer plans in 2010 and 2011. Many of the provisions of the PPACA will not go into effect until 2012 to 2014.

The changes described below apply generally to both insured and self-insured plans, except for those marked with an asterisk that indicate that they are not applicable to "grandfathered plans" (i.e., group plans or individual coverage in place as of March 23), according to current guidance. We expect that further guidance will be issued on grandfathered plans, including maintenance of grandfathered status.

- No lifetime limits. Plans may no longer impose lifetime limits on coverage.
- Restrictions on annual limits. Plans are restricted in the annual limits they may impose through 2013 (beginning in 2014, no annual limits may be imposed).
- Coverage for employees' adult children. If a plan offers dependent coverage, it must offer coverage to employees' children up to age 26 regardless of student or marital status. This applies to grandfathered plans only to the extent that such dependents are not eligible for coverage under another health plan.
- Pre-existing condition exclusions on children. Plans may not impose pre-existing condition exclusions on children under 19.
- Preventive care services.* Plans must cover certain preventive care services, including immunizations and infant care screenings and preventive screenings for women, at no cost to the employee.
- Primary care physicians.* Plans must allow enrollees to select any covered doctor as a primary care doctor or pediatrician.
- OB/Gyn care.* Plans cannot require authorization or referral for a participant to obtain OB/Gyn care.
- Emergency care.* Plans cannot require preauthorization or greater cost sharing for emergency services, even if such emergency services are out-of-network.
- FSAs/HSAs. Employer flexible spending accounts may no longer reimburse for over-the-counter drugs; higher penalties for nonqualified health savings account distributions.
- Nondiscrimination requirements.* Insured health plans may not provide more favorable coverage, benefits or premiums for highly compensated employees (currently applies only to self-funded plans).
- Rescission. Employers may not rescind health plan coverage except in the case of fraud or intentional misrepresentation.
- Appeals process.* Plans must follow a new appeals process with guaranteed receipt of benefits during the appeals process and external review required in certain situations.
- Reporting. Employers must report the cost of employer-provided health care coverage on the Form W-2 related to the 2011 calendar year (and beyond).
- Auto-enrollment. Requires employers to automatically enroll new full-time employees in group health plans (similar to auto-enrollment in a 401(k) plan where the employee may elect out of participation), but more guidance is needed regarding implementation and effective date.
- Early retiree coverage. Provides a temporary program in 2010 to reimburse employers who offer retiree medical benefits to retirees between age 55 and 64. Eligibility for reimbursement is broad, but is currently only funded with an initial federal seed of \$5 billion. Work with your tax adviser and apply early. Applications for reimbursement should be available within the next month or two.

Employers should consult with their advisers to review their existing plans and ensure legal compliance. Stay tuned for further developments.

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