

clear perspective

LEGISLATIVE UPDATE: PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA)

The Patient Protection and Affordable Care Act (PPACA) was signed into law on March 23, 2010. The first of the major regulations begin with the first anniversary an employer has following September 23, 2010.

Now that September 23rd is almost here, what will it mean for you, your company, and your employees?

There is so much information that has been published regarding Health Care Reform that keeping up to speed on what's next can be daunting. Let's break it down to the most critical issues.



Plan years starting after September 23rd will be subject to a number of changes to their medical plan. In addition, to help lower costs employers will need to weigh the cost of the changes and the loss of their grandfathered status.

As we have conversations with our clients about these issues we are all frustrated with the lack of details surrounding the ultimate impact to our companies when making these decisions. As you know the Department of Health and Human Services has been charged with providing the needed details on this legislation however those details are focused on the most current regulations.

THE BOTTOM LINE, AS WE KNOW IT, APPLIES TO ALL PLANS WITH THE FIRST ANNIVERSARY FOLLOWING 9-23-10:

- Adult children to age 26 to be covered
- No lifetime limits on essential benefits (still to be defined)
- No annual limits – phased in until 2014
- No pre-existing allowed on enrollees under age 19 (includes employees)
- Plans may not eliminate benefits for a specific condition
- No health coverage recessions or retro terminations unless a result of fraud or intentional misrepresentation

IF AN EMPLOYER LOSES THEIR “GRANDFATHERED” STATUS, THEIR PLAN MUST ALSO INCLUDE THE FOLLOWING:

- Preventative care covered at 100%
- Expanded claims appeal process
- Non-discrimination 105(h) rules favoring highly compensated employees apply to fully insured plans
- Emergency services must be covered as in network and not subject to prior authorization
- Individuals can select an OB/GYN or pediatricians as their primary care physician

WHAT IS A ‘GRANDFATHERED’ PLAN?

A group health plan in which an individual was enrolled on March 23, 2010 is considered a grandfathered plan.

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PPACA – HEALTH CARE REFORM (cont.)

CHANGES THAT WILL CAUSE THE LOSS OF GRANDFATHERED STATUS:

- Fully insured plans changing health carriers or entering into a new policy with the current carrier
- Eliminating or cutting back significantly on coverage of a condition
- Increase coinsurance percentage
- Increase copay greater of +\$5 or medical inflation +15%
- Increase deductible or out of pocket if greater than medical inflation +15%
- Increase per pay check contribution more than +5%
- Add or tighten any plan annual limits
- Move employee to a plan with lesser benefits
- Cannot restructure company if the reason is grandfathered status



WHAT IF YOU KEEP YOUR “GRANDFATHERED” STATUS?

Grandfathered plans are not required to comply with the following provisions:

- Reporting on wellness and prevention programs
- Dependent coverage to age 26 if the child has access to an employer plan
- Expanded claims appeal process
- OB/GYN and pediatricians to be allowed as primary care physician
- Coverage for emergency services, without prior authorization regardless if in network providers
- Preventive care covered at 100%
- Coverage for clinical trials
- Compliance for fully insured plans with 105(h) non-discrimination rules

So where will that leave you and your company as you are considering your employee medical plan in the future. As published on HRMorning.com, August 16, 2010, overall 90% of the companies expect to lose their grandfathered status by 2014. Of those companies who are self-insured, 72% expect to lose their grandfathered status by 2012.

We are seeing medical plan trend increases from 14% to 17%. If your renewal even after negotiation is double digit, will you be able to keep your grandfathered status? It is worth it? It is likely that the projections done on HRMorning.com will become a reality. Unfortunately Health Care Reform does not include strong provisions that will reduce the cost of health care and so we expect costs will continue to rise for health insurance.

We will keep you updated. More to follow as it becomes known....

IMPORTANT FSA/HSA Update

REGARDLESS of the anniversary of your employee benefit plan, effective January 1, 2011 ALL FSA and HSA plans will not allow over the counter medications (OTC) to be considered an eligible expense unless it is accompanied by a doctor's prescription. Use of a debit card will not be allowed for OTC expenses as well as of January 1st. For eligible OTC, employees will have to pay cash for the medication, then submit it with the doctor's prescription for reimbursement under the FSA. Please call us with any questions.

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