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Health Care Reform Changes: The Top 10 Things Employers Need to Do Now

#1. Determine if health care reform rules apply to your plan(s).

- Apply to most group health plans.
- Do not apply to retiree-only group health plans.
- Do not apply to limited scope dental or vision plans.
- Do not apply to specified disease plans.

#2. Decide if your plans can and should be grandfathered.

- In effect on March 23, 2010?
- Applies to each benefit package.
- Certain market reform rules apply whether or not grandfathered.
- Certain cost sharing limits required to remain grandfathered.
- Exempt from certain coverage and benefit changes if grandfathered.
- Exempt from new claims procedures if grandfathered.

#3. Adopt design changes that apply whether or not plans are grandfathered.

- Expansion of coverage to adult children to age 26.
- Elimination of lifetime maximums on essential health benefits.
- Phase out of annual limits on essential health benefits.
- Elimination of certain pre-existing condition limitations.
- Prohibition on rescissions of coverage.

#4. Recognize the benefit changes you can make and remain grandfathered.

- Changes to comply with health care reform or other federal or state law.
- Benefit increases.
- Add new hires or new enrollees.
- Change TPA.

#5. Understand the benefit changes you cannot make and remain grandfathered.

- Issued a new policy, certificate, or contract of insurance.
- Eliminate all or substantially all benefits for a condition, including necessary elements to diagnose or treat.
- Plans without annual or lifetime limits cannot add an annual limit, annual limits that are less than existing lifetime limits cannot be added, and existing annual limits may not be decreased.

#6. Appreciate the cost sharing limits that apply to grandfathered plans.

- No coinsurance increases.
- Increases in deductible and out-of-pocket limits and co-pays are limited.
- Decreases in employer contributions are limited.

#7. Consider the new coverage and benefit rules that apply to non-grandfathered plans.

- First dollar preventive care.
- Emergency care without pre-authorization and out-of-network emergency care without increased cost sharing.
- Selection of any primary care provider and pediatrician.
- Access to OB/GYN without referral.

#8. Comprehend the new internal claims procedures that apply to non-grandfathered plans.

- Strict adherence to regulatory requirements.
- Non-English notices required in certain circumstances.
- Required content of notices increased.

- 24 hour notice on urgent care claims.
- Flesh out full and fair review.
- No conflicts.
- Concurrent care reduction limits.
- Adverse benefit determinations include rescissions.

#9. Understand the new external appeals procedures that apply to non-grandfathered plans.

- Two types, state and federal.
- Federal applies to self-insured ERISA governed plans.
- If state external review process is available, fully-insured plans must comply. If not, fully-insured plans must comply with the federal process.
- If the state external process applies to plans not governed by ERISA, those plans must comply with the state process. If not, those plans must comply with the federal process.
- Two safe harbors.
 - Voluntary compliance with available state external process.
 - Meet the criteria for standard and expedited external appeals.
- Standard external appeal.
 - Four months to request review.
 - Preliminary review by plan.
 - Referral to an independent review organization (IRO).
 - Detailed contractual provisions with IRO.
 - Thorough IRO review within 45 days.
 - Immediate provision of benefits if reversed.
- Expedited external appeal.
 - Same steps as standard.
 - IRO decision in 72 hours.

#10. Use cost containment measures to offset increased group health plan costs.

- 2011 average expected medical inflation is 8% to 9%.
- Consider benefit reductions in plans not subject to health care reform.
- Consider restructuring plans to avoid health care reform.
- Begin or enhance wellness programs.
- Create disciplined, systematic and automated model vendor contract review processes.
- Negotiate cost plus pharmacy benefit manager contracts that fully account for all discounts, rebates and other monies paid by drug companies.