

COMMUNICATING THE CHANGES: YOUR TALKING POINTS

We are often asked the following questions by clients and participants in the many seminars we give (see News section www.foleylawpractice.com). This month we thought we would share the latest FAQ on health care reform.

Question: We have a fully insured, non-grandfathered plan. What do I tell my boss about the non-discrimination testing requirements?

Answer: All for one and one for all: employee contributions must be identical for each benefit level; all the benefits provided to highly- compensated employees must be provided to all employees; all benefits must have the same waiting periods. Employers must monitor non-discrimination compliance as plans renew on or after 9/23/10. The penalties for non-compliance are severe: \$100 per day per individual, up to \$500,000.

Question: When can my 21-year old be added to my plan?

Answer: The law requires that insurers and employers providing dependent coverage to children make that coverage available to adult children of enrollees up to their 26th birthday. This requirement becomes effective for the plan years beginning September 23, 2010. You will be able to enroll your child in group coverage at the first open enrollment period following 09/23/10. If, however, your child has a preexisting condition, the health plan may exclude coverage until the prohibition on preexisting condition exclusions takes effect in 2014.

Question: When can I enroll my ten-year old who has a preexisting condition?

Answer: The law prohibits insurers from excluding coverage of children's preexisting conditions for plan years beginning after September 23, 2010. The Obama Administration has indicated that it will interpret this provision to require that insurers provide coverage without preexisting condition exclusions to children if they cover the parents, and the health insurance industry has signaled its intent to comply with this interpretation.

Contact Information

Tell us what you're thinking! Your feedback is very important and helps us improve our service to you. To get on our list, you can email info@foleylawpractice.com or contact our firm.

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Question: Will the health care reform legislation force me or our company out of private insurance plans and into a government run plan?

Answer: No. The Patient Protection and Affordability Act builds on the employer-based coverage we have today. You will continue to be able to receive company-sponsored coverage even after all elements of the health care reform legislation become effective.

Question: Will Medicare coverage change?

Answer: The only changes in coverage Medicare beneficiaries will see are two significant improvements to the program that seniors have long asked for. First, beginning in 2011, the Bill will cover 100% of the cost of preventative care such as annual checkups, mammograms and other preventative tests. Second, the bill ensures that seniors will save money on their prescription drugs.

Question: Will my TRI care or VA care change?

Answer: No. TRI care and VA care are exempt from the legislation. The VA and TRI care programs will not be affected by the federal health care reform.

Question: If I have been denied coverage because I have a preexisting condition, what will the law do for me?

Answer: Beginning June 14, 2010, coverage will be available to individuals with preexisting conditions who have been uninsured for at least six months through a high-risk pool program in every state. These programs will provide coverage that immediately covers preexisting conditions at premiums that are capped at the average cost of private coverage. In 2014, when the exchange is open for business, insurers will be prohibited from discriminating against individuals with preexisting conditions and offering or pricing health insurance policies.

Question: Did the health care reform law extend the COBRA premium extension?

Answer: No. The health care reform law did not extend the eligibility time period for the COBRA premium reduction. Eligibility for the subsidy ended on May 31, 2010; however, those individuals who become eligible on or before May 31, 2010 can still receive the full 15 months of coverage as long as they remain otherwise eligible.

Question: Did the health care reform law eliminate COBRA coverage in future years?

Answer: No. The law did not eliminate COBRA coverage, does not phase out COBRA coverage and does not change the COBRA rules.

Question: I have five employees. Will I be required to provide

insurance for my employees?

Answer: No. The employer responsibilities under the health reform law do not apply to employers with fewer than 50 employees. However, you will be able to enroll your employees in coverage through the exchanges beginning in 2014.

Question: I own a business with 35 employees. I don't provide health care insurance, but I am hoping to soon. How will this new law affect me?

Answer: You are currently not in compliance with the Massachusetts health care reform law and need to achieve compliance immediately. Under the federal law, because you have more than 25 workers, you will not get the employer tax credits that start right away. Instead, you will have to wait until 2014, when states start operating the small business health options program.

Question: What if my business grows from 35 employees to 50?

Answer: Starting in 2014, you will be required to offer either health care insurance or pay a fee of up to \$2,000.00 per full time employee if any employee receives government subsidized insurance coverage in the exchanges. However, the first 30 employees who receive government subsidized insurance coverage will be excluded from the assessment.

Question: What does the reasonable break time for nursing mothers' law do?

Answer: Employers must provide breastfeeding employees with "reasonable break time" and a private, non-bathroom place to express breast milk during the workday, up until the child's first birthday.

Question: Who is covered by the reasonable break time for nursing mothers' obligations?

Answer: All employers are covered but those with less than 50 workers do not have to comply if they show that complying with the law would cause an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature or structure of the employer's business.

Question: Are any categories of workers not covered by the breastfeeding mothers' break time law?

Answer: Yes. Exempt workers are not covered by the law.

Question: We have a good health plan in place. Will the new law make our plan more expensive and will I have to pay more?

Answer: The health reform law does contain cost control provisions but those provisions will have little if any affect on medical costs for several years, if ever. Unfortunately, the

already expensive cost of providing health insurance coverage will continue to rise for both the company and you.

Question: How will my health insurance benefits change at the next open enrollment?

Answer: (Each individual employer will have to tailor their response to this question based upon the size of their workforce, whether they enjoy grandfathered status or not, etc.)

- Patients cannot be charged a co-payment for preventative services provided within their health plan network.
- Dependents up to age 26 may be covered under the health insurance and you are not required to name them as a tax dependent.
- You must now obtain a doctor's note to buy over the counter medications with your FSA funds.

Question: Will my dependent children receive any new health care benefits as a result of the new law?

Answer: Yes. The new law prohibits health insurers from excluding coverage of children because of preexisting conditions. The new law requires coverage of not only basic pediatric services under all health plans but also oral and vision needs starting in 2014. The new law also provides \$25,000,000 in funding for childhood obesity demonstration projects and extends dependent coverage allowing young adults to stay on their parents' health care plan until age 26.

Question: Will I be taxed on any coverage provided to my adult child up to age 26, or did the law change the definition of "dependent" for these purposes so that coverage will not be taxable?

Answer: The coverage of any employee's adult child, and reimbursements of their medical expenses, under the employer-provided health plan is not taxable for any year in which the child has not yet turned 27.

Question: How does the federal law impact part-time worker health insurance coverage?

Answer: It does not. Part-time employment status is only relevant under the new law for purposes of determining whether the employer employs at least 50 full-time employees in the prior year.

Question: Does the new federal law affect any of the terms and conditions outlined in our current collective bargaining agreement?

Answer: No.

Question: How does the new law affect our flexible spending accounts?

Answer: Starting in 2011, a company can no longer reimburse employees for over the counter drug expenses. In 2013, a \$2,500.00 cap on contributions will be imposed on flexible spending accounts. In succeeding years, the cap on the contributions will be increased to match the rise in the consumer price index.

Question: What happens when my adult child turns 26 and loses coverage?

Answer: When children age out of a plan, they must be offered an opportunity to extend coverage under COBRA.

Question: Does the reform bill limit the ways insurers can second-guess doctors by denying or limiting claims for care?

Answer: Yes. This year many consumers will gain stronger rights to appeal insurance decisions. All health plans will be required to allow an external appeal using reviewers who have no financial interest in the outcome after a policyholder has exhausted the internal appeals process.

Questions? We can help. 508-548-4888 or info@foleylawpractice.com