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Health Care Reform Amendments Required by End of Year

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April A. Goff

Have you made all the necessary Health Care Reform amendments to your welfare plan and cafeteria plan documents? Are you sure that you've distributed each of the <u>required notices</u> to your plan participants and beneficiaries? Failure to appropriately amend your plans or distribute required notices may result in significant tax penalties. Although time is running short, we can help you ensure that you're in compliance by the end of the year.

Group Health Plans

While we expect that your health insurance provider or third party administrator (TPA) has been working with you to implement the required changes, you may still need to amend your formal plan documents and issue a variety of notices. The amendments and notices will differ depending on your plan year and whether your plan is grandfathered for purposes of Health Care Reform.

If you have not yet amended your plan document, or if you're not sure that the amendments cover all the necessary issues -- please contact us. We have model amendments for both grandfathered and non-grandfathered group health plans that we can easily tailor for your plan. We can provide notices to help you meet your obligations under Health Care Reform and other federal mandates.

Cafeteria Plans

Although many employers have focused on the impact that Health Care Reform has on medical plans, there are also some significant changes required to your cafeteria plan. Our model cafeteria plan amendment covers each of the following issues:

- Pre-Tax Payment of Premiums for Adult Children: Your plan may need to be amended to permit pretax premium payment for an employee's adult child up to age 26. Normally, cafeteria plans may only be
 amended prospectively, so you should do this by the end of the year. If you allowed participants to enroll
 adult children during 2010, you are allowed to retroactively amend your cafeteria plan; provided the
 amendment is made by December 31, 2010.
- Change in Definition of Dependent for Flexible Spending Account: As most group health plans are
 now required to allow coverage of adult children up to age 26, employers may want to adopt a similar
 rule allowing health care flexible spending accounts to cover expenses for children up to age 26. This
 may simplify administration and avoid employee confusion. Plan sponsors are required to formally
 amend their cafeteria plan documents to implement this change.

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Change in over-the-counter medicine or drug coverage: Starting January 1, 2011, health care flexible spending accounts may no longer reimburse for over-the-counter drugs, medication and biologicals (such as cough syrup, pain relievers and allergy medication) purchased without a doctor's prescription. No prescription will be necessary for the purchase and reimbursement of insulin or medical equipment. Although you have until June 30, 2011 to make this required amendment, you may find it beneficial to amend the plan now to avoid confusion.

Model Notices and Amendments Available

If you would like to speak with us regarding the review of your existing documents or for required amendments and notices, please contact April Goff (agoff@wnj.com or 616.752.2154) or any other member of the Warner Norcross & Judd Health Care Reform Task Force.