Benefits Update

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Timeline Of Health Insurance Reform

By Callan Carter (San Francisco)

As everyone knows, the Patient Protection and Affordable Care Act was upheld in a somewhat surprising Supreme Court decision last month. (For a recap of the decision see our Legal Alert on the case at www.laborlawyers.com).

Set out below is a timeline of changes, deadlines, and in some cases decisions, that will face employers going forward. As always if you have any questions, just give one of the Fisher & Phillips benefits attorneys a call.

Reform	Effective Date
W2 inclusion of cost of employer-sponsored health coverage for employers who filed more than 250 Forms W2 in prior year	2012 Forms W2, due 1/31/13
Medical Loss Ratio Rebates to be paid by insurers. Employers may need procedures in place governing how such amounts will be treated and allocated	8/1/12
New standardized summary of benefits and coverage (SBC). 60-day advance notice of any material change	The initial distribution of SBCs was delayed to open enrollment periods beginning on or after 9/23/12.
Extension of Waiver of Annual Limits: Plans wanting to extend their waiver of the restrictions on annual limits must reapply by deadline	12/31/12
Self-funded health plans must pay comparative effectiveness fee of $1 in 2013 (then increased to $2) per participant. Insurance carriers pay fee for fully-insured policies/plans. Scheduled to end 2020	Plan Years/Policy Years ending after 9/30/12
Group plans must report annually to HHS and plan participants about plan benefits designed to improve the quality of care	Upon issuance of regulations
Automatic enrollment for large employer plans (more than 200 F/T employees). Employers must provide notice of auto enrollment and opportunity to opt out.	Upon issuance of regulations
Nondiscrimination rules of 105(h) apply to fully-insured non-grandfathered plans	Upon issuance of regulations
Elimination of employer deduction for subsidy under Medicare Part D (immediate impact on employers' liability and income statements)	ER Tax Years beginning after 12/31/12
Health FSA max election of employee salary deferrals limited to $2,500	1/1/13
Additional .9% Medicare tax on wages and self-employment income for individuals earning more than $200,000 ($250,000 MFJ). New 3.8% Medicare tax on the lesser of 1) net investment income or 2) the portion of MAGI exceeding $200,000 ($250,000 MFJ)	1/1/13
Threshold for the itemized deduction for unreimbursed medical expenses increased from 7.5% of AGI to 10% of AGI for regular tax purposes (waived for individuals age 65 and older for tax years 2013 through 2016)	1/1/13
Employer notice of availability of Exchanges and if employer contribution is <60% of cost, availability of premium assistance and fact that employee will lose employer contribution to coverage in Exchange	3/1/13
National health insurance Exchanges begin, to be administered by a new federal Agency, the "Health Choices Administration." The categories of people and businesses qualified to purchase coverage through the Exchange would be phased in over three years' time to up to 100 employees and the commissioner has the authority to expand the Exchange to larger groups	2014-2016

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Continued from previous page

Reform	Effective Date
Health Insurance Premium Assistance Credit and/or cost sharing reduction for households with income 100-400% of poverty line	1/1/14
Individuals must have minimum essential health insurance coverage for themselves and their dependents	1/1/14
Employer reporting to IRS whether health coverage offered to F/T employees	1/1/14
Standards for qualified coverage, including mandated benefits, cost-sharing requirements, out-of-pocket limits and a minimum actuarial value	1/1/14
Play or Pay: Employers must offer coverage or, if they employ at least 50 full-time equivalent (based on 120 hours/month or 30 hours/week) employees, they must pay a fine. Coverage must meet the essential benefits requirements and maximum employee contribution to be compliant	1/1/14
No waiting periods longer than 90 days	1/1/14
No annual limits on benefits allowed	Plan Years beginning on and after 1/1/14
Elimination of all pre-existing condition limitations or exclusions on all participants	Plan Years beginning on and after 1/1/14
Wellness incentives increased from 20% to 30% of the cost of employee-only coverage	1/1/14
Cadillac plan tax: 40% on coverage in excess of $10,200 for single coverage or $27,500 for family coverage. Paid by employer if self-insured and by carrier if fully-insured.	1/1/18

For more information contact any member of the Fisher & Phillips Employee Benefits Practice Group.

Fee Disclosures: Action Needed

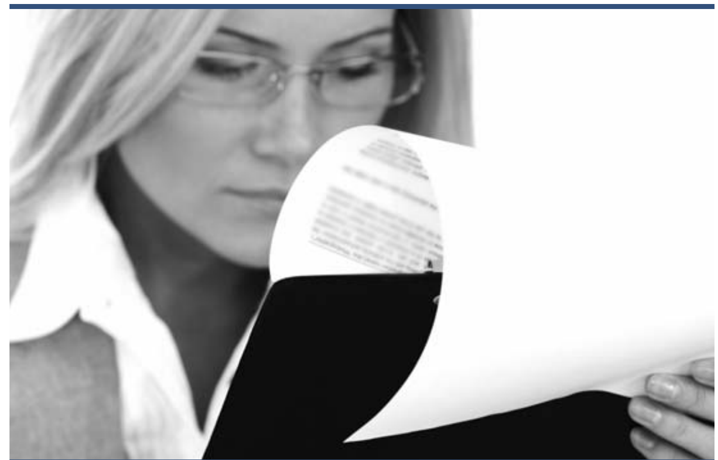
By Callan Carter (San Francisco)

July 1st was the deadline for plan service providers to provide their 408(b)(2) fee disclosures to plan sponsors. Did you receive one? Does it contain all the DOL-required elements?

You must take action if the service provider is covered by the rule and did not provide the 408(b)(2) disclosure or the disclosure did not comply with the requirements of ERISA Section 408(b)(2). You must give service providers 90 days to conform with 408(b)(2). If not corrected within 90 days, ERISA Section 408(b)(2) requires you to fire the service provider or risk your compliance and become subject to DOL penalties and IRS tax assessments.

If your service provider refuses to furnish requested information, you must notify the DOL within 30 days. If your service provider is unresponsive, you must notify the DOL within 90 days. If the requested information concerns future services to be performed after the 90-day period ends, you must end the service arrangement as soon as feasible. The DOL has provided a model fee disclosure failure notice on its website.

Meanwhile, plan sponsors have an upcoming deadline for sending notices to participants of the plan's fees. These notices are to be prepared using the 408(b)(2) notices provided by the plan's service providers and must be sent to participants by August 30, 2012.



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