
# Employee Benefits Advisory

October 14, 2010

## Will A Waiver Save Your Mini-Med Plan From Health Care Reform Requirements?

This is the ninth in a series of alerts intended to help guide employers and plan sponsors through their new obligations under the recently-enacted health care reform laws and related guidance.

Many companies are already struggling to comply with the new health care reform requirements. This is especially true for those companies who offer "mini-med" programs to their workers. Typically, "mini-med" programs provide basic health coverage with low annual limits so that premiums are more affordable for part-time, seasonal, student and other lower-paid employees. Under the new health care reform rules, beginning with the first plan year beginning on or after September 23, 2010 (for calendar year plans, January 1, 2011), group health plans (whether or not grandfathered) generally must not impose any lifetime limits on essential health benefits and must begin to phase-out annual limits on essential health benefits. The annual limit phase-out will occur over a three-year period, with the first plan year annual limit at not less than $750,000, the second year at not less than $1,250,000 and the third year at not less than $2 million (although group health plans may choose to remove the limits immediately).

The Department of Health and Human Services (HHS) previously announced that waivers from these annual limit prohibitions could be obtained for plan years beginning prior to 2014 if plan sponsors could show that compliance with the new prohibition would result in a significant decrease in access to benefits or a significant increase in premiums. Last month, the Secretary of HHS issued instructions for plan sponsors to apply for this waiver. Basically, the plan sponsor must submit a written application at least 30 days prior to the beginning of a plan year, which will be processed by HHS within 30 days following receipt. New waiver applications must be submitted each plan year until 2014 (currently, all plans will be subject to the prohibition on annual limits beginning in 2014, with no waivers available).

HHS recently announced that it approved the initial batch of waiver requests. http://www.hhs.gov/ociio/regulations/patient/appapps.html These requests range from plans covering

**CONTACTS**

If you have questions or need assistance complying with these requirements, please contact any of the McKenna Long & Aldridge LLP attorneys or public policy advisors with whom you regularly work. You may also contact:

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one worker (e.g. Maverick County), to plans covering hundreds of thousands of workers (e.g. McDonald's, United Federation of Teachers). If you think you might be interested in applying for a waiver, note that calendar-year plan sponsors still have until December 1, 2010 to submit waiver applications for the upcoming 2011 plan year.

To view previous alerts from this series, please click on the following links:

Health Care Reform - What Does it Mean to Employers?

Health Care Reform: Can You Continue to Limit Coverage for Pre-Existing Conditions?

Guidance Issued For "Grandfathered Plan Status" Under The Health Care Reform Act

Reimbursement Application Released For Early Retiree Reinsurance Program

Guidance Issued Regarding Coverage of Preventative Services Under Health Care Reform

Guidance Issued Regarding Internal Claims, Appeals, and External Review Processes

Health Care Reform Could Impact Your Employment and Severance Agreements

Last Chance To Possibly Avoid 409A Penalties

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