Highlighting How National Health Care Reform Will Impact Your Organization and Employees

The purpose of this notification is to provide an overview of what is to come regarding the Affordable Care Act (PPACA). It is in bullet format, as it is intended to familiarize you with what to expect and when. As always, your HR Knowledge Broker will be working closely with you as things unfold. Please feel free to contact us at any time to request a special review if you want one. Our goal is to provide you with an overview of the immediate changes that will specifically impact your plan and hence your employees. At the very least, our hope is to continue a dialogue with you about what you can anticipate and how we intend to respond to required changes. For fully-insured groups, we continue to rely on insurance providers to conduct mailings to describe changes in detail and to update the plan summaries and issue Summaries of Benefits and Coverage (SBCs) in a timely manner. We are pleased that the carriers we work with on your behalf have done a super job of staying on top of the changes.

What Happened in 2012?

- Employers had to begin providing W-2 Reporting for Aggregate Annual Group Health Plan Costs (for employers who filed 250+ W-2s for 2011).
- FSA plans had to be amended to comply with the new reimbursement restrictions on OTC (over-the-counter) treatments.
- The New Women's Preventive Care Guidelines were adopted effective August, 2012. This increased (for women) the amount of services covered at 100%.
- Carriers worked on designing the new Summary of Benefits and Coverage (SBCs) so that they are ready for issue with the first open enrollment period after September 23, 2012.
- Medical Loss Ratio rebates were issued in the summer of 2012.

What Is Happening Now for 2013 Plan Years

- SBCs will be issued upon renewal for the 2013 plan year.
- FSA plans will be amended to comply with the $2,500 per employee medical contribution maximum.
- Employers will begin withholding the additional Medicare tax on high income taxpayers and unearned income. This additional 0.9% tax is in addition to the 1.45% Medicare tax withheld and applies to employees with incomes over $200,000 for single filers, and $250,000 for joint filers effective for taxable years commencing after December 31, 2012. Employers do not match this tax increase.

Preparing for What's to Come in 2014

- **Automatic Enrollment:** Employers with more than 200 employees must automatically enroll full-time employees into their health insurance plans (subject to applicable waiting periods). Employees may, however, choose to opt-out of coverage.
- **Waiting Periods:** Employer groups of all sizes may not subject employees to a waiting period that exceeds 90 days. Therefore, employers who begin coverage on "the first of the month following XX days of employment" will have to offer coverage "the first of the month following 60 days of employment." This rule (which already exists in Massachusetts) appears in Section 2708 of the

Public Health Service Act and is referenced in both ERISA and the IRC. Therefore, it applies to public and private plans, including church-sponsored plans.

- **Non-Discriminating Testing:** Previously postponed until further guidance, we anticipate that regulations will be issued in 2013 for an effective date in 2014.
- **Pre-Existing Conditions Exclusions and Annual Limits:** These will not be allowed in 2014.
- **Medicaid Expansions:** Employees with household income between 100% and 400% of the Federal Poverty level (based on size of family) will become eligible for subsidies to purchase coverage through an exchange –unless they are eligible for an affordable employer-sponsored plan.
- **State-Run Exchanges (similar to the Massachusetts Health Connector):** Pursuant to the notices that will be sent in March 2013, these exchanges should be up and running by 01/01/2014. Individuals and small businesses with up to 100 employees will be able to shop for varying levels (bronze, silver, gold, platinum and catastrophic coverage for those under age 30) of coverage at the exchange. Individual policies will not be pre-tax.
- **Essential Health Benefits:** Insurance contracts must cover "essential health benefits" to be considered valid coverage by the government. This is similar to the Massachusetts requirement to offer coverage that is minimum creditable coverage. The ten statutory categories of coverage include: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health & substance abuse or disorder services (including behavioral health treatment), prescription drugs, rehabilitative services and devices, laboratory services, preventive and wellness services and chronic disease management and pediatric services (including oral, but not ortho and vision).
- **Individual Mandate:** Individuals who do not have suitable insurance coverage will be assessed a penalty/tax for each year they do not have coverage. In 2014, the tax is $95 or 1% of household income for an individual over age 18. A household does not have to pay more than three times the single adult penalty. In 2015, the penalty increases to $325 per uninsured adult, or 2% of household income.
- **Employer Reporting for the Mandate:** So that the IRS can administer the penalty, employers will have to report the name, address, TIN and coverage dates of covered individuals and their dependents.
- **Employer Shared Responsibility (aka "pay or play" requirements):** While employers are not required by law to offer comprehensive coverage, those with over 50 full-time employees (FTEs) in 2012 (30 hours per week) will be subject to penalties in 2014 based on content and cost of coverage offered. The penalties are applied as follows:
    - **Employer Does Not Offer Coverage** – an employer subject to the requirement (over 50 FTE in 2013) who chooses not to offer coverage will have to pay a penalty equal to $166.67 per month or $2,000 per year for each full-time employee, excluding the first 30 employees.
    - **Employer Offers Coverage that is either deemed Unaffordable or Does Not Meet "Minimum Value" guidelines:** if an employer offers coverage but the employee's share of the cost exceeds 9.5% of the employee's household income, it is deemed "unaffordable." If the plan does not cover 60% of all plan benefits without regard to co-pays, deductibles, co-insurance and employee contributions, it is deemed to fail the minimum value test. In either case, the employer will be assessed a penalty equal to $250

per month or $3,000 per year for each employee who purchases subsidized coverage through the exchange. The ultimate offering employer liability will be capped at the maximum payable by non-offering employers. Affordability is measured by reference to Box 1 of the employee's W-2 form. Eligibility for the exchange subsidies will be handled by the government, and will be based upon affordability of employer coverage relative to the employee's household income.

- **Employer Reporting for the Shared Responsibility Rule**: Large employers would be required to report to the IRS confirmation of whether they offer minimum essential coverage, the waiting period, the cost of the lowest cost option, the employee contribution percentage and the number and names of employees receiving such coverage.

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