



Health care reform is such fertile ground to write a newsletter that there is never a loss of topics. However, I thought I would start off with a couple of articles that have nothing to do with health care reform.

Medicare Secondary Payer Rules

The Medicare Secondary Payer Rules (the “Rules”) have been around for some time. Essentially the Rules determine whether the employer’s group health plan or Medicare is the primary payer with respect to an individual’s claims. The Rules can be complicated and the government is stepping up its enforcement efforts with new mandatory reporting requirements. However, I wanted to focus in on the Medicare rules as they impact individuals on COBRA coverage.

To help avoid adverse selection Medicare requires individuals to enroll in the system when first eligible. In other words, if a person delays his or her Medicare enrollment, they are penalized in the forms of higher premiums unless they have other coverage. There are special rules when that other coverage is COBRA. The following article talks about how COBRA coverage impacts a person’s Medicare coverage.

<http://www.fordharrison.com/shownewsletter.aspx?Show=6426>

I realize this topic impacts individuals more than employers but it provides valuable information you may want to share with your older employees.

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Ohio Military Leave Law

Most employers are aware of their obligations under the Federal Uniformed Services Employment and Reemployment Rights Act commonly referred to as USERRA. Ohio's Military Family Leave Act (the "Act") became effective July 2, 2010. The Act requires employers with 50 or more employees to provide certain employees up to 10 days or 80 hours of unpaid leave when a family member is called to active duty, is injured, wounded or hospitalized while on active duty. The following article explains the Act.

<http://tinyurl.com/28w7eup>

As I alluded to in the beginning, it is easy to become so focused on health care reform that you may lose sight of all the other statutes that are out there.



Cafeteria Plan Amendments

The IRS issued proposed cafeteria plan rules in 2007 which seems like a lifetime ago. However those regulations have not yet been finalized and now we have health care reform. Health care reform will require most cafeteria plans and premium only plans (i.e. POPs) to be amended before the end of this year. As a general rule, most amendments have to be adopted on a prospective basis. That is, the amendment has to be adopted

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prior to its effective date. The government is making an exception to that general rule and allowing sponsors to adopt these amendments retroactively as long as the amendments are adopted before December 31, 2010. The following article talks about the changes.

<http://tinyurl.com/28qdhjy>

It is important the documents be amended before the end of the year or the plan could become disqualified. If that happens then all the pre-tax salary deferrals would be invalid and would be considered post-tax contributions. As such, they would have to be included on the employees' Form W-2s as taxable income!!



Adult Children and HSA Distributions

One of the most publicized provisions of health care reform is that health plans must now offer coverage to adult children until age 26 (in Ohio for fully insured plans it is until age 28) even if the child is not a tax dependent. The IRS issued a notice saying the coverage can be provided on a tax free basis. However, this favorable tax treatment has not been extended to HSA distributions. Some people think this is only an oversight on the part of the IRS. The last paragraph of this article talks about HSA distributions.

http://www.groom.com/media/publication/700_notice%202010-38-finalv2.pdf

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Again, some people think this is simply a glitch on the part of the IRS. However, until it is corrected (if and when that happens), HSA distributions to adult children are not tax free unless the child is otherwise a tax dependent!!!!!!



New Appeals Procedures

All non-grandfathered health plans have to comply with new internal and external appeal procedures for plan years beginning on or after September 23, 2010. The new rules will not have a major impact on fully insured plans in Ohio because fully insured plans in Ohio already are subject to an external review process. However, self funded plans were not subject to the Ohio rules governing external reviews. With health care reform all non-grandfathered health plans including self funded plans must have external appeal procedures in place. The government (i.e. the Department of Health and Human Services, Internal Revenue Service and Department of Labor) just issued regulations explaining the new appeal procedures. The following article explains the new rules.

http://www.groom.com/media/publication/769_Client%20Alert--Interim%20Guidance%20on%20Federal%20External%20Review%20Process%20final.pdf

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The new rules contain model notices plans can use to tell participants about the new procedures. As a practical matter, the new procedures only have a minimal impact on employers sponsoring fully insured plans. On the other hand, employers sponsoring self funded plans will certainly have to modify their appeals procedures if the self funded health plan is non-grandfathered.

More Paperwork in 2012

Just a “heads up” that effective January 1, 2012, businesses will have to issue Form 1099s to all vendors receiving at least \$ 600 during the year. This requirement really has nothing to do with the health plans. However, this provision was part of the health care reform legislation and is directed at helping to detect unreported income so that the government can collect taxes on the income. The following article talks about the new reporting requirement.

<http://www.journalofaccountancy.com/Issues/2010/Aug/20102954.htm#>

Again, this has nothing to do with health plans but we wanted to alert you to this new requirement so that you can begin to prepare for it.

COBRA Premium Subsidy Increased Enrollment

The COBRA (and Ohio Mini-COBRA) premium subsidy expired on May 31, 2010. That is, the premium subsidy ended for individuals terminated on or after June 1, 2010.

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However, it is not surprising to learn that the subsidy doubled the percentage of people who elected COBRA coverage. According to a survey by Hewitt Associates, Inc. the number of people electing COBRA coverage nearly doubled while the premium subsidy was in effect. The Congressional budget office estimates the price tag associated with the subsidy is almost \$ 25 billion.



Cost of Preventive Care Services

One of the most important questions lurking in every employer's mind is how much is health care reform going to cost me? Non-grandfathered health plans must provide first dollar coverage for preventive care services for plan years beginning on or after September 23, 2010. The following article says the cost of providing this coverage will increase premiums anywhere from 1% to 4% depending on your current plan design.

<http://www.aishealth.com/Bnow/hbd081610.html>

The real unknown with health care reform is how the legislation will impact premiums. Almost everyone believes that the new law certainly expanded coverage which means there will be more people with health insurance. However, many people think the statute does not adequately address the cost issues. Therefore, there is concern that health

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coverage will simply become unaffordable down the road. The following article talks about the alleged cost saving provisions in health care reform.

<http://www.urban.org/uploadedpdf/412194-ppaca-containing-costs.pdf>

Hopefully Congress will address the cost issues soon and not simply lose sight of the fact employers are paying the lion's share of the coverage.

Early Retiree Reinsurance Program

The government is providing employers who offer early retiree health coverage financial assistance for certain claims. The application process for the money is very involved. Not surprisingly some applications are incomplete or incorrect. The government has released guidance on how to correct those applications. Please see the following article if you have submitted an application to participate in the early retiree reinsurance program and the application has not yet been approved by the government.

<http://www.hr.cch.com/news/benefits/081610.asp>

As a practical matter, the early retiree reinsurance program only makes sense for larger employers that offer early retiree coverage. Therefore, the number of employers that are trying to participate in the program is probably not that large.

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What's Another \$ 20 Billion?

According to Milliman, Inc. medical errors cost the United States almost \$ 20 billion! See the attached article.

<http://www.hr.cch.com/news/benefits/082610.asp>

I believe it is extremely difficult, if not impossible, to assign a number to the cost of medical errors. However, Milliman, Inc. is extremely credible so I thought I would include the article.

If you have any questions, please contact your McGohan Brabender representative.

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Page 8

8/31/2010