



June 16, 2015, Compliance Update

US Supreme Court to Rule on ACA Again

The US Supreme Court will rule later this month on whether individuals getting their coverage through a federally run health care exchange or marketplace are eligible for government subsidies to help pay for their coverage.

www.fas.org

It is impossible to predict how the Court will rule. It would be a relatively easy fix for Congress to remedy the problem. However, with this Congress nothing is simple – stay tuned!!

Government Asks for Comments on Health Plan Identifier

HIPAA required all group health plans to adopt a unique health plan identifier. Something akin to a Social Security number for health plans to use when transmitting data. On October 31, 2014, the government postponed the implementation of the health plan identifier until further notice.

www.gpo.gov

The comments are due by the end of next month. This is probably the first step in reinstating the rules.

HSA Contributions May Be on the Bubble

Even though the Cadillac tax is more than two years away, people are starting to pay attention to it. Many say it is one of the most significant provisions of health care. One of the items in the crosshairs is the employer and employee pre-tax HSA contribution.

www.aba.com

Employee pre-tax and employer HSA contributions are subject to the tax. This means that employers may stop making HSA contributions and require employees to make the contributions on a post tax basis. This will increase the tax revenues to the Federal government, which is another way to help finance health care reform.

Insurers Did OK Under Health Care Reform

Health care reform imposed a number of new restrictions on carriers and there was a concern that the insurance companies would take a real beating in the individual market. However, that has not yet happened.

kff.org

Enrollment was up approximately 45% but the overall financial results were similar to previous years' results.

More Guidance on ACA Reporting

By now you should be well aware of the reporting requirements that kicked in January 1, 2015. That is, employers have to complete IRS Form 1094 and IRS Form 1095 to report the employer's health coverage to the IRS and employees. The government continues to issue guidance on the reporting requirements.

www.seyfarth.com

www.wagnerlawgroup.com

Even though the 2015 forms have not been released, the vendors are starting to come out with products to help employers comply with the requirements. Hopefully you have been gathering the data necessary to complete the forms.

Limited Exception for Wrap Coverage

Health care reform requires group health plans to meet a number of requirements like unlimited coverage for essential benefits. However, there are a limited number of exceptions for certain types of coverage. One of those exceptions applies to wrap coverage.

www.segalco.com

Although employers can adopt wrap coverage, it remains to be seen how popular these plans will be. Most employers are going to spend money to comply with the play or pay or employer mandate rules under health care reform, and wrap coverage cannot be used to satisfy those rules. So it is doubtful employers will devote a lot of resources for wrap coverage.

Students and ACA

Now that summer is here a number of employers are hiring students to help out during these months. So the question becomes how do they fit in under health care reform.

www.employmentmattersblog.com

This article is part of a series of articles on how to treat students under health care reform. As a practical matter, kids are covered under their parents' health plan now that group health plans have to cover children up to age 26.

Updated FMLA Forms

President Clinton enacted the Family and Medical Leave Act in 1993 so most employers are familiar with the rules.

hrlaws.services.xerox.com

The government has provided templates employers can use to comply with the various notice requirements. The government has recently updated those templates.

New SBCs on the Horizon

In an effort to make it easier to select a group health plan, health care reform requires the plan to prepare a summary of benefits and coverage or SBC. The SBC is a four-page summary of the plan. The SBC is required to use standardized terms and a uniform format so it is easier for individuals to make an "apples to apples" comparison.

www.cms.gov

The plans have to use a government template and the government is in the process of updating the template. The new document is expected to be released later this year but will not become effective until 2017.

Legal Fees & ERISA Cases

Anyone who has been involved in a lawsuit knows the legal fees can add up quickly. In fact, the legal fees can end up being more than the damages. A recent court case may add fuel to this fire. ERISA provides that the court may award legal fees. This court held that legal fees could be awarded even though the party did not win the case or the case got settled.

www.insidecounsel.com

As a practical matter, this may encourage lawyers to file suits for ERISA benefits even if the case is not that strong. This, in turn, may add pressure on the employer to settle the matter to avoid running up legal fees on the other side. If the employer is willing to settle the matter, the settlement agreement should also address the other side's legal fees.

Enrollment Periods under Health Care Exchanges or Marketplaces

One of the most important components of health care reform is the exchanges or marketplaces where individuals and small employers can go get health coverage. There is an annual open enrollment period when people can jump onto the exchange or marketplace to get coverage. However, there also are events that create a special enrollment period where an individual can get coverage under the exchange or marketplace mid-year. This chart shows the various special enrollment period events.

www.healthreformbeyondthebasics.org

What this means is that a person cannot enroll in a health plan offered through the exchange or marketplace mid-year **UNLESS** one of these events occur.

Telemedicine on the Rise

As the population gets older they will need more health care but there is a limited supply of physicians. So everyone is looking at ways to make health care more accessible, and telemedicine seems to be one way.

www.usatoday.com

allhealth.org

Here are a couple of articles on the topic. Walgreens, the country's largest drugstore chain, is promoting virtual doctors' visits, and with advancing technology this trend is likely to continue.

