

## **1 Employer Mandate Delayed Again for Certain Employers**

The big news this week is that the employer mandate, or play or pay rule, has been delayed again for employers with less than 100 full time employees. Employers with less than 50 full time employees remain exempt from the employer mandate. Employers with between 50 and 99 full time employees will have to comply with the employer mandate with plan years beginning on or after January 1, 2016, while employers with 100 or more full time employees have to begin comply with the rules for plan years beginning on or after January 1, 2015.

<http://bit.ly/1aYOLAr>

<http://bit.ly/1bPfyKx>

<http://bit.ly/1gb8Gfq>

We will provide additional information in the coming weeks.

## **2 Medicare Part D Notices**

There are two notice requirements under Medicare Part D. The notices advise whether the employer's group health plan provides "creditable" or "non-creditable" coverage. The first notice goes to the plan participants and the second notice goes to the government. The notice to government has to be in electronic format and is due within 60 days of the first day of the plan year. This means the notice has to be submitted to the government electronically by the end of this month if the plan is maintained on a calendar year basis.

<http://go.cms.gov/1J1Lvh>

This is the link to the government's website where you have to report the plan's status. Again, you need to submit the information to the government before the end of this month.

## **3 New Marketplace Notices**

Employers are required to notify all employees about the health care exchange or marketplace. The government just updated the templates employers can use to satisfy this notice requirement. There are two versions. One version is for employers that offer a group health plan and the other version is for employers that do not sponsor a group health plan.

<http://bit.ly/1jBzXLg>

The notice is supposed to be provided to all new employees within 14 days of the date they are hired. Again, the notice goes to all employees – even those that are not eligible for the employer's group health plan.

#### **4 Use It or Lose It – Relaxed**

The use it or lose it rule under cafeteria plans has been around for a long time. The IRS amended the rules several years ago to allow participants a 2½-month grace period. That is, participants could incur expenses up to 2½ months after the close of the plan year to use up the money. The IRS recently has gone a step further and modified the rules to allow employers to amend their Health FSAs to allow participants to carryover up to \$500.

<http://bit.ly/1mcQpDt>

Note that employers are required to amend their plans. This article talks about things to consider before allowing the carryover.

#### **5 IRS Issues Rules on Individual Mandates**

As noted above, the government has postponed the employer mandates but, at least so far, has not delayed the individual mandates. These rules talk about how employer HRA contributions and wellness programs impact the individual's ability to get subsidies under the health care exchanges.

<http://bit.ly/LXbL74>

The individual mandate penalizes most Americans who do not have health coverage through the year. These rules outline how the person may be eligible for coverage under the exchange which, in turn, would avoid the individual mandate if the person does, in fact, get coverage through the exchange.

#### **6 Government Looking at Provider Networks**

A number of carriers have elected to participate in the health care exchanges or marketplaces. However, many of the carriers are limiting the providers under the plans offered through the exchanges. That is, some carriers are offering plans both inside and outside the exchange. However, the plans being offered in the exchanges may have a narrower network of providers.

<http://bloom.bg/1fjBSNf>

The carriers are limiting the networks for the plans offered through the exchanges so that those plans will be profitable. In other words, the carriers think they can make the exchange plans profitable by limiting the networks. However, the government is starting to look into this practice.

#### **7 Elephant in the Room – Discrimination Rules**

The government continues to spit out rules on a number of topics but one of the biggest unknowns is the discrimination rules applicable to fully insured health plans. Self funded group health plans have been subject to discrimination rules for some time. Health care reform imposed similar rules to fully insured group health plans but those rules have been postponed until the IRS issues regulations.

<http://bit.ly/1dnCBQS>

No one knows for sure when the IRS will issue the rules. Until those rules are released it is very difficult to develop a compliance strategy. Our guess, and it is only a guess, is that the IRS will issue the discrimination rules before the employer mandate becomes effective. As the first article states, the employer mandate for some employers is effective in 2015 and for other employers the employer mandate does not become effective until 2016.

### **8 Additional Medicare Tax on High Earners**

Health care reform is financed, in part, by additional Medicare taxes on individuals earning more than a certain amount. This article discusses the additional tax.

<http://bit.ly/1gb9u3Q>

Note that the additional Medicare tax is assessed against only the individual. The employer is not required to match the additional amount.

### **9 Mental Health Parity and Addiction Equity Act**

This law was passed in 2008 and basically requires health plans to provide the same level of coverage for mental health and addiction as other medical and surgical benefits. The government issued final rules regarding this law. This article provides an in-depth review of the new rules.

<http://bit.ly/1cz1e9g>

The Mental Health Parity and Addiction Equity Act has become less important with the passage of health care reform. Before health care reform the rules imposed specific restrictions on group health plans. After health care reform, those same restrictions apply but they are simply included in the group health plans. In other words, health care reform requires the group health plan cover certain services including mental and substance abuse benefits. As a result, the separate requirements under the Mental Health Parity and Addiction Equity Act are less important since these benefits are required under health care reform.

### **10 DOL Releases 2013 Form M-1**

The government released the 2013 Form M-1. All multiple employer welfare arrangements (“MEWAs”) are required to file this form electronically with the government. There really are not that many MEWAs but we expect that number to grow. The reason I mention the Form M-1 is that it contains an audit checklist that is applicable to all group health plans.

<http://1.usa.gov/1c1GXMy>

The “bottom line” is that few will need to file the Form M-1 with the government BUT every employer can use the audit checklist to ensure the group health plan complies with the various statutes.

## **11 Private Exchanges**

Unfortunately there is no easy way to controlling health care costs. As costs continue to rise employers are leaving no stone unturned. Some people are advocating private exchanges as the solution. This article talks about things to consider when thinking about exchanges.

<http://bit.ly/1dKGyuC>

There are no simple answers when it comes to providing health coverage to your employees. A private exchange is only as good as the products offered through the exchange.

## **12 New Excepted Benefit**

The government has issued a number of rules that clearly state employers cannot pay for the employees’ individual health policies on a tax-free basis. However, the government recently stated that, under certain circumstances, the employer may be able to supplement an employee’s individual policy.

<http://bit.ly/1eWXfHY>

Note that the rules are pretty limited. That is, the program has to meet stringent guidelines and it is doubtful many employers will take advantage of this opportunity. Nevertheless, I wanted to provide information on this option.