



January 31, 2015

Employer Mandate and Health Plan Provisions

By now everyone knows that large employers have to offer quality/affordable health coverage to full time employees or pay a penalty. Most employers know about the tracking rules (i.e. the measurement period, administrative period and stability period) for variable hour employees. However, I am not sure employers have given much thought how these rules tie into the health plan eligibility provisions and the COBRA rules. These article talk about both of these topics.

<http://bit.ly/15LujS4>

<http://bit.ly/1ya4rqu>

Basically the employer mandate dictates when the employer may have to pay a penalty but those rules do not automatically govern the health plan's eligibility rules. So you really have to give this some thought. Also, in the case of a fully insured plan, you need to ensure the plan's certificate accurately spells out the rules. In other words, you cannot override the carrier's certificate by simply adopting your own eligibility provisions.

Does Health Care Reform Fall Apart?

Health care reform faces another test in front of the US Supreme Court later this year with respect to the premium and cost-sharing subsidies. That is, the statute says the subsidies only are available to those that get coverage through a state-run exchange as opposed to an exchange run by the Federal government. These articles talk about what might happen if the US Supreme Court says only those in state-run exchanges are eligible for the subsidies.

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

<http://bit.ly/1z8hdKg>

This is a pretty big deal since the subsidies would go away for people in 37 states. There never is a dull moment with health care reform!!

US Supreme Court Allows Employer to End Retiree Health Coverage

The US Supreme Court overturned a longstanding rule that started out in Ohio over 30 years ago. The Sixth Circuit Court of Appeals (Ohio is in the Sixth Circuit) held in 1983 that the Court could infer that retiree health benefits were vested even if the collective bargaining did not clearly spell this out. The US Supreme Court overturned this logic earlier this week and held that if the parties are silent as to the duration of the retiree health coverage, the Court should not infer that the coverage is to continue indefinitely.

<http://bit.ly/1z8hjBV>

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

<http://bit.ly/1z8hywC>

This is a big victory for employers that have wanted to drop or at least modify their retiree health plans. However, employers should not leave it to the courts to interpret their benefit programs. That is, all programs should be clearly spelled out so that the courts need not get involved in the first place.

Employers Need Not Cover Same Sex Spouses

A recent court case held that an employer sponsoring a self-funded health plan need not cover same sex spouses. The Court's ruling simply addresses the ERISA issues involved with not providing health coverage to same sex spouses.

<http://bit.ly/1BA83Wp>

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

I doubt that this will be the last word on this topic. The US Supreme Court has agreed to hear a case that may require all the states to recognize same sex marriages. So I believe, at some point, benefit plans will have to treat same sex and opposite sex spouses the same way.

Limited Wrap Around Coverage

Health care reform imposed all kinds of requirements on group health plans. For example, they have to have unlimited lifetime coverage for essential benefits. However, excepted benefits are not considered health plans and, as such, are exempt from the health care reform requirements. Limited scope dental and vision plans are considered excepted benefits. The government has issued proposed regulations that allow employers to adopt "wraparound" coverage that will be considered excepted benefits and need not comply with health care reform.

<http://bit.ly/1JO540f>

The rules for these new wraparound benefits are pretty complex and only are available to part-time employees to supplement their individual coverage. It remains to be seen how many employers will adopt these programs.

IRS To Abate Penalty for Some

The government continues to pick and choose which parts of health care reform will be enforced and which parts it will let slip. The law provides that lower income individuals receive a premium tax credit or subsidy to help pay for health coverage offered through the exchanges or marketplaces. Those premium credits are based on the person's household income. Therefore, it is not surprising that the person may receive more subsidies throughout the year than he or she is entitled to based on the person's final income. In other words, the subsidies provided during the year are based on the person's projected household income and the amount is reconciled at the end of the year based on the person's actual household income for the year.

<http://bit.ly/1CD9XHI>

<http://onforb.es/15WavLk>

The IRS announced that it will not assess a penalty if the taxpayer owes the government because the person has to refund some or all of the premium subsidy. Note that the person has to pay back the overpayment but the IRS will waive the penalty associated with underpaying your taxes.

What's Next for Health Care Reform

Most people agree that health care reform expanded coverage for millions of Americans. However, many people believe that was only the first step. This article talks about four goals that remain.

<http://bit.ly/1BuzeQ3>

It remains to be seen how much the government will be able to accomplish in the coming two years based on the current composition in Congress and the political climate in general.

Employer Mandate & Multiemployer Plans

If you have union employees you probably are pretty familiar with multiemployer plans that provide health coverage to those employees. You do not get a free pass for the union employees under the employer mandate provision of health care reform. That is, you could be penalized for not offering quality/affordable coverage to full time union employees. These

articles outline the rules associated with the employer mandate provisions as they apply to multiemployer plans.

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

<http://bit.ly/1ERTvm2>

It is critical that you review these rules if you are contributing to a multiemployer plan for your union employees. Otherwise you may be in for big surprise in the way of large penalties under the employer mandate.

Start Tracking Now!

All large employers (i.e. 50 or more full-time and full-time equivalents) will have to prepare and distribute IRS forms to all full-time employees (i.e. those working at least 30 hours per week) early next year. Large employers that sponsor self-funded health plans have to distribute these forms to part-time employees who are covered under the self-funded health plan. Also, employers with fewer than 50 full-time and full-time equivalents that sponsor self-funded health plans will have to prepare and distribute IRS forms to the employees covered under the self-funded health plan early next year.

<http://bit.ly/15LuRXW>

It is critical that you begin gathering the data now. It will be almost impossible to try to reconstruct the information after the fact. A good starting point is to contact your payroll vendor to see if they can help you gather the data and prepare the forms.

Stop Loss Policies

If you are sponsoring a self-funded health plan or thinking about adopting one, the stop loss coverage is a critical component of the program. This article talks about things to consider when shopping stop loss coverage.

<http://bit.ly/1JO5PXf>

Assuming health care reform is not repealed, more employers are thinking about self-funded health plans so this article is important.