Health Care Reform: Highlights for Employers

Bill Milne
Weld, Riley, Prenn & Ricci, S.C.

As you are aware, this week, Congress passed health reform legislation, which will affect nearly all employers and taxpayers. These changes will be effectuated by two acts: the Patient Protection and Affordable Care Act and the Health Care and Education Affordability Reconciliation Act of 2010, which amends that Act with revisions proposed by the House. Although there are pending court challenges and Congress will naturally tinker with parts of these laws before they become effective, significant changes are upon us. Thus, there are several portions of these Acts and implementation dates we felt employers should be aware of:

Effective in 2010:

- Certain small employers can qualify for a tax credit (a dollar for dollar reduction in taxes) if they provide coverage to employees. This change is effective immediately, and initially lasts through the 2013 tax year. After 2013, the credit remains available for two more years, to small employers that purchase health insurance through the state-based exchanges.

- Group health plans and insurers will be prohibited from denying coverage to dependent children for preexisting conditions or placing lifetime limits on coverage; by 2014, preexisting condition limitations must be removed for everyone.

- Unmarried, adult dependent children who have not reached age 27 by the end of a given tax year must be permitted to remain on their parents' health plans. Also, coverage for a employee's adult children will not be included in the employee's gross income. Therefore, this change will provide relief for Wisconsin employers who have been addressing the imputed income issues associated with similar mandates implemented by the State of Wisconsin at the beginning of this year.

- Employers with more than 200 full-time employees and that offer employees enrollment in one or more health benefits plans must automatically enroll new full-time employees in one of its plans (subject to applicable waiting periods) and continue the enrollment of current employees in all health benefits plans the employers offer. Employees must also be given an opportunity to opt out of any coverage.

Effective in 2011:

- A new, Simple Cafeteria Plan, will be available for small businesses- in this case, defined as employers with 100 or fewer employees during either of the two preceding years. This type of plan would be subject to fewer participation restrictions, thus making it easier for smaller employers to provide tax-free benefits to employees. The Simple Cafeteria Plan will also be available to self-employed individuals.

- Employers will have to include the value of employees' health insurance benefits on employees' Form W-2s, for 2011 and later tax years.

Effective in 2013:

- An additional Medicare payroll tax for high wage earners- $200,000 for individuals and $250,000 for married couples filing jointly- is applied to income over these amounts. Currently, the $200,000/$250,000 thresholds will not be indexed for inflation.

- Subsidies given to employers that provide prescription drug benefits to Medicare retirees will be taxed.

- Contributions to health flexible spending accounts will be limited to $2,500 per year (adjusted for inflation in future years).

- A 3.8% tax on net investment income (interest, dividends, rents, certain capital gains) for individuals earning over $200,000 and married couples filing jointly, earning over $250,000, is applied to income in excess of these amounts. Again, these amounts will not be indexed for inflation. Income generated in tax-deferred retirement accounts, like 401(k) accounts, will not be subject to this tax.

Effective in 2014:

- Most people will be required to have health insurance, and would face penalties for remaining uninsured.

- State-based health care exchanges for small businesses and individuals will be created. Lower income ($43,420 for individuals and $88,200 for a family of four) individuals without employer coverage and small businesses have the option to purchase health insurance through these exchanges. Individuals and small business may also qualify for tax credits toward purchase of insurance through the exchanges.

- "Applicable Large Employers, which, generally, means businesses that employ at least 50 full-time equivalent employees during the preceding year, must offer a minimum amount of coverage to its employees. (Therefore, employers with 50 or fewer full-time equivalent employees will not be subject to this requirement). If coverage is not offered and at least one employee receives a tax credit to buy insurance, the employer's penalty will be $2,000 per full-time employee; however, the first 30 employees are not included in this calculation. If an employer does offer coverage to its employees, and has at least one full time employee receiving a premium credit, the employer is assessed a $3,000 penalty per employee receiving the credit.

- Employers offering minimum essential coverage and paying a portion of that coverage would have to give qualifying employees a voucher, equal to the value of the employer's contribution to the health plan, which the employee can use to purchase a health plan through the state-based insurance exchange. Qualifying employees are those: who do not participate in the employer's plan; whose required contribution for the employer sponsored coverage is between 8% and 9.8% of household income; and whose gross household income is less than 400% of the poverty level for their families. The penalties described above will not be applied to employees who receive vouchers.

Effective in 2017, employers with more than 100 employees can buy coverage on the state-based insurance exchanges, if permitted by the state.

Effective in 2018, additional (nondeductible) taxes are imposed on high-cost, employer-sponsored health coverage ("Cadillac" plans). The tax is 40% of the value of the plan that exceeds the threshold amount (initially $10,200 for single coverage and $27,500 for family coverage). The tax is imposed on the insurance company (which, presumably, means the cost will be passed on to employers and individuals through higher premiums), unless the employer's plan is self-funded.

If you have questions about the Acts or anything discussed in this update, please do not hesitate to contact us.

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