



**Health Care Reform:  
Interaction of Federal and State Laws  
Requiring Coverage for Adult Children**

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Recent Federal health care legislation includes changes requiring health insurance coverage for adult children. Since Wisconsin implemented similar changes at the beginning of this year, Federal coverage mandates will not be a complete shock to Wisconsin employers. However, there are some differences between the Federal and State laws we thought employers should be aware of. Late last week, the IRS also issued some guidance regarding imputed income taxes, which Wisconsin employers have been trying to address in connection with Wisconsin's coverage mandates.

Under the new Federal law, plans offering dependent health insurance coverage must generally include coverage for adult children under the age of 26. Unlike Wisconsin's mandate, Federal law does not have any other conditions related to a child's marital status or availability of other employer-provided coverage. In other words, all children up to age 26 must be covered. For these purposes, a child includes an employee's child, stepchild, legally adopted child, child lawfully placed with the employee for legal adoption, and an eligible foster child.

The Federal mandate is effective for plans as they renew after September 23, 2010. Therefore, as a practical effect, the broader federal mandate will not apply to employers until their plans renew next year. Employers should follow Wisconsin's coverage requirements in the meantime.

We also want to point out the age differences between Federal and State law. Under Federal law, coverage must be provided to adult children until they reach age 26. Under Wisconsin law, coverage lasts until age 27 (assuming other requirements are met). Therefore, the broader Federal test will apply until a child turns 26. Then Wisconsin law will apply until the child turns 27. Thus, the forms employers may be using to obtain information regarding employees' dependent children will need to be modified to reflect the collection of information until an employee's adult child turns 27.

Perhaps the bigger issue for Wisconsin employers is whether imputed income rules still apply to health insurance coverage provided to adult children, who are not considered dependents for income tax purposes. Fortunately, the new Federal health care laws provide some relief in this regard. Effective as of March 30, 2010, for Federal income tax purposes, imputed income tax rules do not apply to insurance coverage provided to adult children who are 26 for the full tax year.

In other words, employers do not impute income or withhold taxes on the value of coverage for an adult child, for Federal income tax purposes, until the year in which the adult child turns 27. This change, however, is not retroactive. Imputed income rules still apply for Federal income tax purposes if an adult child did not meet dependency tests for Federal income tax purposes between January 1 and March 30 of this year.

At this time, it is still unclear whether the State of Wisconsin will make a similar update to its imputed income rules. Therefore, for State income tax purposes, the safer approach for employers is to continue to apply imputed income rules.

Additionally, the IRS has clarified that cafeteria plans, FSAs, and HRAs can make distributions for adult children under age 27 without triggering income taxes as adult children can be treated the same as other dependents under these types of accounts. Therefore, note that cafeteria plans may need to be amended to include employees' adult children.

If you have any questions or would like to discuss any of the issues highlighted in this article, please do not hesitate to contact us.

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