CUSTOMIZED BENEFIT SOLUTIONS, INC.

Legislative Brief

Health Care Reform: Extension of Dependent Coverage

On March 23, 2010, President Obama signed into law the health care reform bill, the Patient Protection and Affordable Care Act. This legislation, along with the Health Care and Education Reconciliation Act of 2010, makes sweeping changes to the U.S. health care system, including an extension of health insurance coverage to young adult children up to age 26. Though many of the changes will be implemented over the next several years, the extension of coverage to young adult children takes effect in as little as six months from enactment.

This Legislative Brief provides a summary of the provisions of the law requiring the extension of dependent health insurance coverage. Please read below for more information and contact Customized Benefit Solutions, Inc. with any questions.

What Does The Law Require?

Group health plans and health insurance issuers offering group or individual health insurance coverage that provides dependent coverage of children must make coverage available for adult children up to age 26, regardless of the child's marital or student status. Parents can decide whether to add adult children to their plan. There is no requirement, however, to cover the child of a dependent child. The mandate applies to plans in existence on the date the law was passed ("grandfathered plans") and new plans. The cost of coverage, as well as reimbursement of medical expenses, is not taxable to the employee or the child with dependent coverage. The new law also allows self-employed people who buy their own insurance to deduct the cost of covering adult children up to age 26.

Though the coverage requirement ends on the child's 26th birthday, employers can continue to offer this benefit until the end of the plan year with preferential tax treatment on the extension. The law does not control the price of the coverage nor limit how much of the cost of this new coverage can be passed on to employees. The insurer can decide how much to charge for the coverage. Likewise, the employer can decide how much, if any, to subsidize. That is, employers can pass some or all of the added cost on to employees individually or even as a group.

To Whom Does The Law Apply?

Insurers and all health plans that provide dependent coverage of children will be required to permit an adult child to stay on family policies until age 26. "Child" means an individual who is a son, daughter, stepson, stepdaughter or eligible foster child of the taxpayer/employee.

What Is The Effective Date Of The Law?

The extension of dependent coverage provision takes effect for plan years beginning on or after September 23, 2010. That means that for October plans, the start date would be October 1, 2010. Plans that run on a calendar-year basis must cover an employee's dependent child up to age 26 starting on January 1, 2011. Plans that begin July 1 must cover dependents up to age 26 starting on July 1, 2011.

For grandfathered plans, before January 1, 2014, the provision will apply only with respect to dependent children not eligible for coverage under another employer's health plan. On and after January 1, 2014, the provision applies to all plans regardless of a dependent child's eligibility for coverage under another employer health plan. For collective bargaining agreements, the provision becomes effective upon termination of the last collective bargaining agreement in effect on March 23, 2010.

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What If State Laws Differ From Federal Law?

More than two-thirds of states have passed laws that require insured group health plans to cover dependents after they turn 18 years old, often into their mid to late 20s and in some cases later. For example, in New Jersey, unmarried children can stay on a parent's plan until they are 31 years old. Such state mandates, including those requiring coverage past age 26, will continue to apply.

What Are the Tax Effects Of State Laws Which Require Coverage Longer Than The Federal Law?

The Health Care and Education Reconciliation Act of 2010 amended federal tax law so that employers can offer tax-free health insurance coverage to adult children of employees during those taxable years in which the children are age 26 or under for the entire taxable year. It does not matter whether those children are tax dependents for federal income tax purposes. Often, adult children that obtain coverage pursuant to state law are not tax dependents for federal income tax purposes. In the event state laws mandate coverage past age 26, federal tax law requires employers to impute as income, to employees covering children who are not tax dependents, the fair market value of health insurance coverage provided to such non-tax dependents for those taxable years in which a covered child turns 27 or older, or that employees pay for it on an after tax basis.

Since the change in the federal tax code is not retroactive, the fair market value of coverage provided between January 1, 2010 and March 30, 2010 for a child who was not a tax dependent continues to be taxable income. Employers will still need to treat such coverage as imputed taxable income to the employee for this time period and must report it as such on the employee's Form W-2, unless it was paid for on an after tax basis.

What Should Employers Do Now?

Employers face a myriad of issues related to the requirement to extend health insurance coverage to adult children. Some of the issues of which employers should be aware and should consider taking immediate action include:

- Confirming coverage changes with TPAs, insurers and stop-loss providers;
- Determining the cost impact to the employer (e.g., how much will insurers charge for the additional coverage);
- Determining whether and how to charge the employee for coverage (e.g., determining how much, if any, of the cost of extended coverage to pass along to the employee);
- Revising plan documents, enrollment materials, SPDs and other employee communications;
- Reviewing payroll practices for imputing income and withholding taxes, and making necessary adjustments;
- Considering establishing who is and who is not a tax dependent (e.g., employee certification);
- Reviewing vendor agreements to determine the need to coordinate communication and notice responsibilities with insurers; and
- Reviewing COBRA treatment of individuals, especially in states where extended coverage is optional.

Regulations implementing this new mandate are forthcoming. Customized Benefit Solutions, Inc. will keep on top of developments regarding this and other legislative initiatives and will work to keep you informed.

This Customized Benefit Solutions, Inc. Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

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