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Exchanges Give Employers More Enrollment Options

Beginning in 2014, each state will be required to set up a health insurance exchange that will offer coverage to individuals residing in that state. Coverage will only be available to lawful residents. According to recently released regulations, open enrollment for the exchanges will commence in October of 2013. Individuals will only be permitted to enroll for the exchanges during the initial open enrollment or during subsequent annual enrollments, unless they experience a special enrollment event (e.g., marriage, birth of a child, loss of employment, etc.).

Also in 2014, small employers can offer coverage to their employees through an exchange. Each state may define "small employer" as an employer that averaged less than either 50 or 100 employees during the course of the preceding calendar year. Starting in 2016, however, all states must define "small employer" as an employer with less than 100 employees. In 2017 states are permitted to open their exchanges to employers of any size.

Small employer open enrollment will also commence in October of 2013, although, unlike the individual enrollment period, small employers may enroll in the exchanges at any time. Under the proposed regulations, small employers will be permitted to either enroll all employees in a single health plan or to allow employees to choose among all available health plans. If employers choose the latter, they must only pay one aggregate premium amount to the exchange, rather than paying a separate amount to each selected health plan.

IL Civil Union Law Impacts Fully Insured Plans—No Change to Taxation of Coverage

As of June 1, 2011, the new Illinois Civil Union Law requires employers to offer civil union partners the same coverage that is offered to traditional spouses in any fully-insured benefit program issued in the State of Illinois. The Civil Union Law did not change Illinois tax law though, so civil union partner coverage will almost always be taxable to the employee. **The law has other implications for employee benefits, including:**

Documentation Required to Evidence Civil Union Status

Employers may not impose more stringent documentation requirements on civil union partners than they require to prove marriage. Assuming employees are required to provide a marriage certificate, however, employers may also require employees to produce a civil union license.

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The information contained in this publication is intended for the general information of our clients. It should not be construed as legal advice or legal opinion regarding any specific or factual situation.

IL Civil Union Law Impacts Fully Insured Plans—No Change to Taxation of Coverage continued

Special Enrollment Right

The Illinois Civil Union law impacts insured health plans issued in Illinois immediately (not upon renewal). As a result, the Illinois Department of Insurance requires all plans with fully-insured programs to offer employees entering into a civil union a special enrollment opportunity for their partner (similar to the special enrollment opportunity that would arise following marriage). The special enrollment window must run at least 30 days from the date of the event. Employees who fail to enroll their civil union partner during the special enrollment period may still do so during the next annual enrollment period.

Other Benefits

The Civil Union Law most directly impacts fully-insured health, dental and vision plans. It could also impact other policies though, such as life insurance or long-term disability, which often allow participants to insure a spouse or name a spouse as the primary beneficiary of the policy proceeds. These policies must now afford equal treatment to civil union partners.

The Civil Union Law does not impact qualified retirement plans, however. These plans are subject to federal law, which does not recognize same-sex unions.

Similarly, Medicare coverage is governed by federal law, so same-sex partners are not entitled to Medicare benefits in light of the Civil Union Law.

Finally, COBRA is a federal law, so civil union partners do not receive federal continuation of coverage rights. However, civil union partners may separately be entitled to Illinois continuation of coverage rights in certain instances.

Coverage is Usually Taxable

Illinois tax law did not change as a result of the Civil Union Law. As a result, most civil union partner coverage will be considered taxable to the employee. In some instances, however, a civil union partner may qualify as the employee's federal tax dependent. For more information employers should consult with a tax advisor.

Participant Communications and Plan Documents

Plan sponsors should amend plan documents and participant communication materials (SPDs, SMMs) to reflect the availability of civil union partner coverage.

IRS Proposes Rules Relating to 2014 “Pay or Play” Penalties

The IRS recently requested comments on several Affordable Care Act provisions effective in 2014, including (1) the penalties for failure to offer affordable coverage (the “Pay or Play Penalty”) and (2) the prohibition on waiting periods in excess of 90 days. The request for comments offered a glimpse into how the IRS intends to interpret these provisions following the close of the comment period.

Pay or Play Penalty

Starting in 2014, large employers must:

- 1 Offer coverage to full-time employees or pay a penalty of \$2,000 multiplied by the total number of full-time employees; and
- 2 Offer “affordable coverage” (the employer's share must equal at least 60% of the actuarial value and the cost of single employee coverage cannot exceed 9.5% of any employee's household income) or pay a penalty equal to \$3,000 multiplied by the number of full-time employees who receive a premium subsidy or tax credit for health coverage obtained through a health insurance exchange.

Determining Whether An Employer is a Large Employer

A “large employer” is one who employed an average of at least 50 full-time employees on business days during the preceding calendar year. When counting, employers may disregard seasonal employees but must aggregate part-time employee hours to come up with a “full-time employee equivalent.” A full-time employee is an employee who works, on average, 130 hours per month. The number of full-time equivalent employees is determined by dividing the aggregate number of hours of service of employees who are not full-time by 120.

Methods for Determining Full-Time Employees

While part-time employees may be considered in determining whether an employer is a “large

employer,” only full-time employees are required to be offered coverage. The IRS suggests using a look-back/stability period to determine full-time status, during which the employer would look back at a period of anywhere between three and twelve months to determine whether the employee averaged 130 hours per month. If the employee is determined to be a full-time employee, the employer would then be required to provide coverage for a subsequent stability period, which would be at least six months long. Unless the employee terminates service during the stability period, the employer would be required to continue providing coverage, even if the employee dropped below full-time status.

90 Day Waiting Period

Starting in 2014, the Affordable Care Act prohibits employers from imposing a waiting period for health coverage that exceeds 90 days. The IRS requested comments on how the 90-day rule should apply to a number of hypothetical situations. Many of these hypotheticals demonstrate that the IRS is considering allowing employers to start the 90-day waiting period from a date other than an employee's date of hire (e.g., the 90-day waiting period would instead begin once the employee is otherwise eligible to enroll under the terms of the plan).

Maximum HSA Contribution to Increase in 2012

Starting in 2012, Internal Revenue Service limits on HSA contributions will increase to \$3,100 for individual coverage and \$6,250 for family coverage. Maximum out-of-pocket expenses will increase to \$6,050 for individual coverage and \$12,100 for family coverage.

Expanding Dental/Vision Preventive Services May Save Employers Money in the Long Run

According to a recent study highlighted in Business Insurance, employers can actually decrease medical costs by increasing dental and vision preventive service benefits. A number of companies are expanding these benefits due to this proven link between oral, vision and systemic health. For instance, oral diseases can lead to such health

complications as pre-term delivery in pregnant women, diabetes or oral cancer. Further, eye examinations can be used to detect not only glaucoma and cataracts, but also hypertension, rheumatoid arthritis, diabetes, and a number of other serious medical conditions.

Department of Labor Gives Employers Additional Time to Comply with 401(k) Fee Disclosure Rule

Last year, the Department of Labor issued interim final regulations regarding service provider fee disclosure. The rules are designed to (1) assist plan fiduciaries in determining the reasonableness of compensation paid to plan service providers and identifying potential conflicts of interest that may affect a service provider's performance and (2) inform participants of service provider fees relating to their retirement plans.

Notably, the rules will require plan sponsors to produce and distribute to participants a comparative chart with investment-related information, including fees and expenses paid to service providers. For each investment option, the chart will show the name, type (e.g., equity or bond fund), website, average annual return for the last one, five and ten-year period, as well as the return since inception, and the total operating expenses and fees.

The service provider disclosure requirement and participant-level disclosure requirement have different effective dates. Recent Department of Labor guidance extended the compliance deadline for both disclosures.

Under the new rule, service providers must disclose fee information to plan sponsors no later than April 1, 2012.

The participant-level disclosure rule becomes effective for plan years beginning on or after November 1, 2011 (January 1, 2012 for calendar-year plans). The participant report is due by the later of (a) 60 days following the close of the first quarter in which the new rules apply, or (b) 60 days following the effective date for the service provider disclosure. So, the earliest a plan sponsor might be required to provide the participant-level disclosure would be May 31, 2012 (but the deadline could be later for off-calendar year plans).

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Save The Date:

**Mid American Group
Fall Seminar and Luncheon
September 15, 2011**

Topics:

**Should Employers Drop Their
Employee Medical Plans?
An Actuarial Evaluation
PPACA 2014 State Exchanges
Wellness Strategies for Cost
Containment**

Study Shows Management Commitment Matters for Wellness Program Success

A recent study by Health Enhancement Research Organization (HERO) showed that employer-sponsored wellness programs are far more likely to succeed if they are embraced by senior management. The study was based on participation rates and outcomes for almost 500 employers.

The study showed that while most employees do not find their senior management to be very supportive of their wellness programs, participation rates were significantly higher when management participated in and supported the programs themselves.

Further, strong leadership led to better results. The study showed that management support resulted in reduced health risks and slower cost growth.

Room for Improvement in Employee Health Management Leadership *	
Senior leadership active in employee health management programs	45%
Mission statement supports culture of health	33%
Believe senior leadership and culture is "very supportive" of employee health management	25%
Organized network of wellness champions in place	20%

Use of Incentives in Employee Health Management Programs *			
	Health Risk Assessment	Disease Management Program	Behavior Modification Program
Offer any incentive	82%	25%	61%
Cash/gift card	37%	13%	35%
Lower Premiums	30%	8%	18%
Contribution to FSA, HSA or HRA	12%	4%	6%
Average value of incentive	\$225	\$148	\$154

The Value of Employee Health Management Program* Incentives Matter		
Average participation rate when value of incentive is:	Health Risk Assessment	Behavior Modification Program
...in the top third	63%	37%
...in the bottom third	43%	24%

* Source: HERO Employee Health Management/Mercer Best Practice Scorecard