Sterling Benefits, LLC

PREMIER PROVIDER OF EMPLOYEE & EXECUTIVE BENEFITS

Health Care Reform FAQ's

Issued: 5/7/2010

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Employee Questions

How does the new health care reform legislation affect my coverage under my group health plan?

The new health care reform legislation, The Patient Protection and Affordable Care Act (PPACA) as amended by the Health Care and Education Reconciliation Act, makes many changes to employee health benefit plans. Some of the changes go into effect for the first plan year that begins on or after six months after enactment (September 23, 2010), so for calendar year plans, January 1, 2011. However, many changes do not go into effect until the first plan year beginning on or after January 1, 2014.

How do I enroll my adult child onto my plan?

Six months from March 23, 2010, insurers will be required to permit children to stay on family policies until age 26. This applies to all plans in the individual market, new employer plans, and existing employer plans, unless your adult child has an offer of coverage through his or her employer. This requirement will take effect the next time your plan comes up for renewal. Adult children who are on their parents' plan now but who lose that coverage when they graduate from college will have the option of rejoining their parents' policy in the new plan year beginning 6 months from now. Those whose parents work at self-insured companies will also be eligible if they do not have an offer of employer-sponsored insurance. Both married and unmarried dependents qualify for this dependent coverage. The spouse of the married dependent or dependents of the dependent will not be covered.

Beginning in 2014, children up to age 26, regardless of student status, can stay on their parent's employer plan even if they have an offer of coverage through their employer.

Can I now get coverage for my 6-year-old who has a pre-existing condition?

Yes. Effective six months from March 23, 2010, it will be illegal for health insurance companies that cover children to deny coverage to your child based on a pre-existing condition. This applies to all new employer plans, new plans in the individual market, and existing employer plans.

What consumer protections will I get this year if I get insurance at work?

In 6 months, insurers will be prohibited from placing lifetime limits on what they will pay for your medical care and they can only apply restricted annual benefit limits. Insurers will no longer be able to arbitrarily cancel your insurance policy when you get sick, except in cases of fraud.

I have a pre-existing condition. How can I get coverage this year?

This year, if you have been uninsured for 6 months and have a pre-existing condition, you will gain access to health insurance that was not previously available to you.

A new program – known as a high-risk pool – will provide affordable insurance for Americans who are uninsured and have a pre-existing condition. This program will provide temporary protection for people with pre-existing conditions until 2014, when insurance companies can no longer deny you coverage based on your health.

Employee Questions ~ continued

Will Over-the-Counter Drugs still be an eligible expense for FSA's and HSA's?

Yes and No. Starting January 1, 2011, only doctor prescribed over-the-counter drugs will be considered as an eligible expense for reimbursement. The prohibition applies to expenses incurred on or after January 1, 2011.

Will I still be able to contribute to a FSA?

Yes, if your employer provides one. A $2,500 cap has been mandated for the Medical FSA effective 2013.

Health Care Reform & COBRA

Did the health care reform legislation eliminate COBRA?

No. The new health care reform legislation, The Patient Protection and Affordable Care Act (PPACA) as amended by the Health Care and Education Reconciliation Act, did not eliminate COBRA or change the COBRA rules. See An Employee's Guide to Health Benefits Under COBRA-The Consolidated Omnibus Budget Reconciliation Act for more information about COBRA.

Did the health care reform legislation extend the COBRA premium extension?

No. The new health care reform legislation, The Patient Protection and Affordable Care Act (PPACA) as amended by the Health Care and Education Reconciliation Act, did not extend the eligibility time period for the COBRA premium reduction. Eligibility for the subsidy ends May 31, 2010; however, those individuals who become eligible on or before May 31, 2010 can still receive the full 15 months as long as they remain otherwise eligible. Subscribe to the COBRA Web page to receive information and updates regarding the COBRA premium subsidy.

Did the health care reform legislation extend the time period an employee can have COBRA beyond 18 months?

No. The new health care reform legislation, The Patient Protection and Affordable Care Act (PPACA) as amended by the Health Care and Education Reconciliation Act, did not extend the maximum time periods of continuation coverage provided by COBRA. COBRA establishes required periods of coverage for continuation health benefits. A plan, however, may provide longer periods of coverage beyond those required by COBRA. COBRA beneficiaries generally are eligible for group coverage during a maximum of 18 months for qualifying events due to employment termination or reduction of hours of work.

Certain qualifying events, or a second qualifying event during the initial period of coverage, may permit a beneficiary to receive a maximum of 36 months of coverage.

Individuals who become disabled can extend the 18 month period of continuation coverage for a qualifying event that is a termination of employment or reduction of hours. To qualify for additional months of COBRA continuation coverage, the qualified beneficiary must:

- Have a ruling from the Social Security Administration that he or she became disabled within the first 60 days of COBRA continuation coverage (or before) and
- Send the plan a copy of the Social Security ruling letter within 60 days of receipt, but prior to expiration of the 18-month period of coverage. If these requirements are met, the entire family qualifies for an additional 11 months of COBRA continuation coverage.

See An Employee's Guide to Health Benefits Under COBRA-The Consolidated Omnibus Budget Reconciliation Act for more information about COBRA.

Employer Responsibilities

Am I required to offer insurance to my employees?

No. There is not a so-called “employer mandate” in the legislation.

Do we have to offer health coverage to part-time employees?

No. Part-time employees working fewer than 30 hours per week are not subject to the coverage mandate.

What penalties, if any, are levied to employers with fewer than 50 lives?

There is no penalty for employers with fewer than 50 lives. The monthly penalty for those with 50 or more lives is $2,000 multiplied by 1/12 multiplied by the number of employees, not counting the first 30 employees. For example, if an employer had 54 employees, the monthly penalty would by $2,000 x 1/12 x (54-30) = $2,000 x 1/12 x 24 = $4,000.

Are we required to offer and pay (or provide a voucher) for all employees regardless of status (temp, internship, etc.), length of service (60 days after hire date), average weekly hours (part-time schedules), etc.?

No. The employer penalty does not apply to employers with fewer than 50 employees. The penalty only applies to full-time employees (at least 30 hours per week). A 60-day waiting period is still permissible.

Is there a minimum employer contribution on employee and dependent premiums?

No, but they could be fined if one of their full time employees goes to the exchange because the employer contribution is not enough to avoid coverage being deemed unaffordable for them.

Will employer’s have to report the value of health care benefits on a W-2?

Yes, starting in 2011. The benefits are not treated as taxable income, but the information needs to be reported for transparency purposes.

Does an HRA or HSA contribution count toward the Cadillac Plan tax?

Yes. The value of HRA coverage and the amount of HSA contributions both count.

Can I join a pool now to lower my costs?

Beginning in 2014, reform will create state-based health insurance exchanges that pool small businesses and their employees, which will spark competition and give you the kind of purchasing power that big businesses enjoy today. The exchange will offer the same types of private insurance choices that the President and Members of Congress will have. Increased purchasing power and competition will make premiums more affordable. The exchange will also reduce administrative costs for your businesses and your employees, enabling them to easily and simply compare the prices, benefits, and quality of health plans.

What is the Exchange?

Effective January 1, 2014, the Exchange will be a federally funded, state-run insurance vehicle through which individuals may purchase health care coverage.

What are grandfathered plans?

Grandfathered plans are simply group health plans that were in prior to March 23, 2010. If the plan is altered after March 23, 2010, including drug card changes, it is no longer considered grandfathered.

Small Business Tax Credit

What is the small business tax credit and how do I know if I am eligible?

Effective January 1, 2010, tax credits are available to qualifying small businesses that offer health insurance to their employees. So if your business qualifies for a tax credit, you are eligible right now.

About 4 million small businesses will be eligible to receive tax credits if they provide insurance.

The tax credit is worth up to 35 percent of the premiums your business pays to cover its workers – 25 percent for nonprofit firms. In 2014, the value of the credit will increase to 50 percent – 35 percent for nonprofits.

Your business qualifies for the credit if you cover at least 50 percent of the cost of health care coverage for your workers, pay average annual wages below $50,000, and have less than the equivalent of 25 full-time workers (for example, a firm with fewer than 50 half-time workers would be eligible).

The size of the credit depends on your average wages and the number of employees you have. The full credit is available to firms with average wages below $25,000 and less than 10 full-time equivalent workers. It phases out gradually for firms with average wages between $25,000 and $50,000 and for firms with the equivalent of between 10 and 25 full-time workers. To learn more about the small business tax credit, you can also visit IRS.gov

Which employers are eligible for the small employer health care tax credit?

Small employers that provide health care coverage to their employees and that meet certain requirements ("qualified employers") generally are eligible for a Federal income tax credit for health insurance premiums they pay for certain employees. In order to be a qualified employer, (1) the employer must have fewer than 25 full-time equivalent employees ("FTEs") for the tax year, (2) the average annual wages of its employees for the year must be less than $50,000 per FTE, and (3) the employer must pay the premiums under a "qualifying arrangement".

What if my small business doesn't offer insurance today, but I choose to start offering insurance this year. Will I be eligible for these tax credits?

Yes. The tax credit is designed to both support those small businesses that provide coverage today as well as those that newly offer such coverage.

Can a tax-exempt organization be a qualified employer?

Yes. The same definition of qualified employer applies to an organization described in Code section 501(c) that is exempt from tax under Code section 501(a). However, special rules apply in calculating the credit for a tax-exempt qualified employer. A governmental employer is not a qualified employer unless it is an organization described in Code section 501(c) that is exempt from tax under Code section 501(a).

What expenses are counted in calculating the credit?

Only premiums paid by the employer under an arrangement meeting certain requirements (a "qualifying arrangement") are counted in calculating the credit. Under a qualifying arrangement, the employer pays premiums for each employee enrolled in health care coverage offered by the employer in an amount equal to a uniform percentage (not less than 50 percent) of the premium cost of the coverage. See Q/A-22 for information on transition relief for tax years beginning in 2010 with respect to the requirements for a qualifying arrangement.

If an employer pays only a portion of the premiums for the coverage provided to employees under the arrangement (with employees paying the rest), the amount of premiums counted in calculating the credit is only the portion paid by the employer. For example, if an employer pays 80 percent of the premiums for employees' coverage (with employees paying the other 20 percent), the 80 percent premium amount paid by the employer counts in calculating the credit. For purposes of the credit (including the 50-percent requirement), any premium paid pursuant to a salary reduction arrangement under a section 125 cafeteria plan is not treated as paid by the employer.

Small Business Tax Credit ~ continued

In addition, the amount of an employer's premium payments that counts for purposes of the credit is capped by the premium payments the employer would have made under the same arrangement if the average premium for the small group market in the State (or an area within the State) in which the employer offers coverage were substituted for the actual premium. If the employer pays only a portion of the premium for the coverage provided to employees (for example, under the terms of the plan the employer pays 80 percent of the premiums and the employees pay the other 20 percent), the premium amount that counts for purposes of the credit is the same portion (80 percent in the example) of the premiums that would have been paid for the coverage if the average premium for the small group market in the State were substituted for the actual premium.

Does the average salary include the owner's salary?

Yes, if the owner is considered an employee.

What is the average premium for the small group market in a State (or an area within the State)?

The average premium for the small group market in a State (or an area within the State) will be determined by the Department of Health and Human Services (HHS) and published by the IRS. Publication of the average premium for the small group market on a State-by-State basis is expected to be posted on the IRS website by the end of April.

What is the maximum credit for a qualified employer (other than a tax-exempt employer)?

For tax years beginning in 2010 through 2013, the maximum credit is 35 percent of the employer's premium expenses that count towards the credit.

Example. For the 2010 tax year, a qualified employer has 9 FTEs with average annual wages of $23,000 per FTE. The employer pays $72,000 in health care premiums for those employees (which does not exceed the average premium for the small group market in the employer's State) and otherwise meets the requirements for the credit. The credit for 2010 equals $25,200 (35% x $72,000).

What is the maximum credit for a tax-exempt qualified employer?

For tax years beginning in 2010 through 2013, the maximum credit for a tax-exempt qualified employer is 25 percent of the employer's premium expenses that count towards the credit. However, the amount of the credit cannot exceed the total amount of income and Medicare (i.e., Hospital Insurance) tax the employer is required to withhold from employees' wages for the year and the employer share of Medicare tax on employees' wages.

Example. For the 2010 tax year, a qualified tax-exempt employer has 10 FTEs with average annual wages of $21,000 per FTE. The employer pays $80,000 in health care premiums for those employees (which does not exceed the average premium for the small group market in the employer's State) and otherwise meets the requirements for the credit. The total amount of the employer's income tax and Medicare tax withholding plus the employer's share of the Medicare tax equals $30,000 in 2010.

How does an employer claim the credit?

The credit is claimed on the employer's annual income tax return. For a tax-exempt employer, the IRS will provide further information on how to claim the credit.

The IRS has provided a comprehensive list of requirements at www.irs.gov/newsroom/article/0,,id=220809,00.html?portlet=6. Included on that page is a link for three simple steps to qualify: www.irs.gov/pub/irs-utl/3_simple_steps.pdf. The credit is claimed on the corporate tax return, except that non-profit employers can claim the credit by reducing their payroll taxes. The IRS has posted an FAQ at: http://www.irs.gov/newsroom/article/0,,id=220839,00.html.

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IMPORTANT: This document is designed to provide a general overview of the new health reform law. It does NOT attempt to cover all of the law's provisions and should NOT be used as legal advice for implementation activities. We encourage you to seek any professional advice, including legal counsel, regarding how the new requirements will affect your specific plan.

Sources

http://www.irs.gov/newsroom/article/0,,id=220839,00.html

http://www.healthreform.gov/about/answers.html

http://www.dol.gov/ebsa/faqs/faq-PPACA.html

http://www.nahu.org

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