



Health Care Reform Update

What You Need to Know Now



Healthcare Reform Bulletin #2

HCR News!

Banyan Consulting LLC is pleased to present our new Health Care Reform series.

Over the next months and years, employers will be faced with numerous changes, many of which require regulatory clarification. We'll use this venue to keep you up to date, and on target with decisions that affect your plans.

HCR Update – The IRS recently released Notice 2010-38, you can obtain a copy at their website IRS.gov.

What You Need to Know Now About: Dependent Children to Age 26 (or 27)

There are a few different pieces in the Health Care Reform Act that take effect in the near future. The one that has garnered more headlines is the requirement to cover dependent children to age 26. The Q&A segments below address different portions of the provision and how it impacts employers.

1. Dependent Coverage Extension.

The bill requires that **medical** coverage be extended to dependents until they turn age 26. (It does **not** require you to extend the age on other types of insurance (like dental/vision coverage.)

The IRS has just released guidance on the definition of a dependent, and the accompanying tax implications and removes the full-time student requirement.

2. When does our company have to make the change?

Employers will be required to amend their plans to cover dependents to age 26 beginning with **plan years starting after** September 23, 2010. (Employers who renew October 1, 2010 will be the first ones this impacts.)

Even though the timing to expand the definition of a dependent is not required to begin until later this year, most insurance companies have volunteered to amend their policies early to accelerate the process.

3. Should we extend our dependent age early? Pros/Cons?

With upcoming renewal dates being spread across the next 12 months, many young people have the potential to lose their coverage (because of their age, student status, or graduation date) prior to the law being enacted by their parent's employer.

Recognizing this issue, most insurance companies will be allowing employers to keep any currently covered dependent child (that would otherwise be losing coverage) on the health plan beginning June 1, 2010. Extending this "early fix" to dependents currently on your plan will be received favorably by your employees, and potentially reduce some of the administrative burden of cancelling coverage and offering COBRA to many young people over the next few months.

Of course, for employers who are experience-rated or self-funded, the claims incurred by these dependents will be factored into plan costs.

4. When can employees add children who aren't currently covered because they already graduated or were too old?

Even though the insurance carriers are offering employers the option of allowing enrolled dependents to remain on the plan in June, it does not cause a "life event" allowing re-enrollment of dependents that are not currently on your plan.

This may cause confusion with your employees, but they will only be permitted to add children to the plan at your next renewal/open enrollment period.

5. Who actually qualifies as a dependent?

The reform package has also changed the requirements to be considered a dependent for coverage purposes under the parent's health plan. Dependents now include children that are married, and for most plans, the child will be eligible under your employee's coverage even if the child has other group coverage available¹.

The IRS recently released guidance concerning the **definition of "dependent" for medical care reimbursements under Sec. 105 (b)**. (Notice 2010-38) This guidance impacts the taxability of benefits you are providing and may also impact your Flexible Spending Account (FSAs) and Health Reimbursement Arrangements (HRAs). Health Savings Accounts (HSAs) do not appear to be included.

The IRS has updated Section 125 Cafeteria Plan rules, effective March 30, 2010, clarified the expansion of the tax exclusion and confirms that an employer-sponsored health plan may provide coverage free from federal income tax to an employee's children up to age 27. However, the exclusion does not apply the calendar year the dependent reaches age 27. For example, if a dependent turns 27 on December 15th, the health coverage during the entire calendar year is taxable income to the employee.

6. Do I need to update my Section 125 Premium Only Plan, Flex Plan or HRA plan?

The IRS recently released guidance concerning the definition of "dependent" for medical care reimbursements under Sec. 105 (b). (Notice 2010-38) This guidance may impact your Flexible Spending Account (FSAs) and Health Reimbursement Arrangements (HRAs).

This will have an immediate effect on plans that define eligibility based on Sec. 105(b) including Health FSA's and HRA's. The IRS is permitting a one-time exception to the rule that all plan changes must be prospective - as long as your plan document is amended by 12/31/2010. This will allow a cafeteria plan participant to increase their health FSA election and/or modify their pre-tax salary reduction if they add an adult child dependent.

The tax exclusion applies for medical care reimbursements of individuals who are not age 27 or older at any time during the calendar year. For example, if a child turns 27 in any month of 2010, a health FSA or HRA cannot reimburse any 2010 expenses for that child. If the expenses are for a child who is 26 or younger as of the end of the calendar year, the plan can reimburse the expense if it was incurred on or after March 30, 2010.

7. Am I required to change my Section 125 Premium Only Plan, Flex Plan or HRA plan to include dependent coverage to age 27?

You are not required to extend coverage beyond age 26. However, if your documents currently contain language that defines eligibility based on Sec.105(b), you will need to address this provision with your Section 125 plan administrator.

Please contact a member of your Banyan consulting team if you need assistance with these provisions or employee communications.

The exception to this portion is for grandfathered plans (those in existence on March 23, 2010) that can prohibit adult children who are eligible for other group coverage until 2014. There is still guidance needed on how employers can maintain grandfathered status. As information becomes available we will notify you.

Summary of the new rules impacting adult dependent eligibility:

1. Patient Protection and Affordable Care Act (PPACA) requires dependent coverage to age 26.

2. Section 125 Cafeteria Plan rules have been amended retroactively to March 30, 2010 to permit non-taxable benefits (including pre-tax contributions) for any child who has not reached 27 by the end of the tax year.

3. If your group health plan permits dependent eligibility beyond the new Section 125 requirement (27), pre-tax benefits are not permitted and income will need to be imputed to the employee who is covering the dependent (much like imputed income calculations for same sex domestic partners).

4. PA permits employers to choose if they wish to cover dependents up to age 30. The cost of coverage for the gap between the year the child reaches 27 and age 30 cannot be offered under Section 125 and will result in imputed income for the employee.

5. Many carriers in PA require that PA dependent eligibility coverage be offered under a separate individual plan for the dependent. This should make it easier in keeping that dependent coverage cost separate from coverage that permits pre-tax contributions for premiums (mom and/or dad).