



Health Care Reform Update

What You Need to Know Now



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UPDATED 10/13/2010

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.

What You Need to Know Now About: W-2 Reporting

Another component of the Health Care Reform Act signed into law on 3/23/2010 is that beginning with the 2011 tax year, employers must report the aggregate cost of applicable employer-sponsored health insurance coverage on employees W-2 forms. General information about this requirement has been provided, however, the Department of Labor (DOL) has not yet issued Interim Final Rules on this provision of the Health Care Reform Act.

On 10/12/2010, the Internal Revenue Service (IRS) announced that they are delaying the implementation of this provision for a year. As a result, employers will not have to be in compliance until the 2012 tax year. No other changes to the implementation of this provision were noted.

1. When does an employer have to be ready to be in compliance with this new reporting requirement?

Employers must be prepared to accurately report this information on an employee's 2011 W-2 form as early as February, 2011. Although employers will be sending most of the 2011 W-2 forms to the employees in January, 2012, if an employee terminates employment in 2011, they do have the right to request an early 2011 W-2 form. Employers must be prepared for this possibility.

2. How is “applicable employer-sponsored health insurance coverage” defined?

The “applicable employer-sponsored health insurance coverage” is more than just the employer’s health plan. The requirement includes:

- Medical plans;
- Prescription drug plans;
- Health Reimbursement Accounts
- Executive physicals;
- On-site clinics if they provide more than *de minimus* care;
- Medicare supplemental policies; and
- Employee assistance programs (EAP).

Typically, dental and vision plans are not included if they are “stand alone” plans. For example, most employers will have a separate dental or vision plan with, perhaps, a different insurance carrier than their medical plan. However, an employer might sponsor a medical plan that has a separate rider that provides a benefit for routine vision exams. In the latter case, the cost for the vision rider should be factored into the cost/value.

Other benefits in which an employer might be making a contribution on behalf of an employee, such as flexible spending accounts, health savings accounts, specific disease or hospital/fixed indemnity plans, are excluded from the reporting requirement.

3. How does an employer calculate the cost/value for the “applicable employer-sponsored health insurance coverage”?

For medical plans and prescription drug plans an employer should use the fully-insured monthly rates charged by their medical and prescription drug carriers. Employers with self-funded plans should use the rates developed for COBRA participants (minus the 2% administrative fee).

This is an area in which further guidance is needed from the DOL, through issuance of Interim Final Rules, and from the IRS. For example, how should the cost/value be calculated for an employee whose coverage starts or stops mid-month? For fully-insured plans the expectation is that cost/value will be calculated based on the amount of monthly premium payments made by the employer to the insurance carrier for the employee. For self-funded plans, however, the calculation may be more difficult. Will the cost/value be prorated based on the number of days for the month and calculated on a per day basis, or, will the calculation be based on a cut-off date for the month? For example,

if an employee has coverage for more than half of the month, should the employer add that month's COBRA rate to the employee's calculation? If the employee had the coverage for less than half the month, the employer should not add that month to the employee's calculation? We will provide further guidance when updates from the DOL or IRS are released.

4. How does an employer calculate the cost/value for an on-site clinic or an EAP?

Once again, this is an area in which further guidance is needed. Most employers with an on-site clinic have probably never calculated the cost/value of that benefit to its employees. Even if the employer had calculated the cost/value of that benefit, at this time, there is no guarantee that the methodology would be acceptable.

An employer paying a premium rate to an EAP vendor would use that premium to calculate the cost/value. However, recent years have seen a trend in EAP services being provided to an employer as a value-added service by a different vendor, typically, the life or disability insurance company. Guidance will be needed as to how to determine the cost/value in these situations.

5. Will the employee be taxed on the cost/value of the employer-sponsored health insurance?

No. The reporting of the cost/value of the employer-sponsored health insurance is for informational purposes only and the employee, at this time, will not have to pay tax on the amount reported.

6. What are the reasons for this reporting change?

The reasons for this new W-2 reporting requirement have never been clearly defined. However, the assumption is that there are 3 probable reasons for this change.

- Disclosure – Employers will now be reporting to the employees the actual cost/value of the health insurance. Previously, most employees did not have this information unless the employer sent communication materials such as benefit statements.
- Individual Mandate – In 2014, all U.S. citizens will have to have health insurance or pay a penalty. How an individual is going to document

having coverage is still unclear – perhaps the W-2 will be the vehicle used for documentation.

- “Cadillac Tax” – Beginning in 2018, employer-sponsored health plans with aggregate values exceeding \$10,200 for individual coverage and \$27,500 for family coverage will be subject to the “Cadillac Tax”. How will the IRS know which employer-sponsored health plans are subject to this Cadillac Tax? Most likely from the amounts reported on the W-2 forms. If subject, then the Plan will be taxed. The employee will not be taxed, at least not directly.

7. What do I need to do now?

- Develop an implementation strategy with your Payroll department and/or your Payroll administrator by February, 2011.
- Determine how and if you can calculate the cost/value for all the plans subject to reporting on the W-2 form.
- You may want to consider preparing a communication piece for your employees to, first, alert them of the inclusion of the new information on the W-2 so that they will see the amount you pay for health insurance coverage for them and, secondly, to assure them that they are not being directly taxed on this amount in 2011. For future tax years, there is no expectation that the employee will be directly taxed on this amount however that is always subject to change. Your Payroll department and/or Payroll administrator may already be drafting communication pieces on your behalf.

If you have any questions on this or any new health care reform regulation, please consult with a member of your Banyan Consulting team.