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Information Every Business Needs to Know

HR & Benefits Advisor

June 2010

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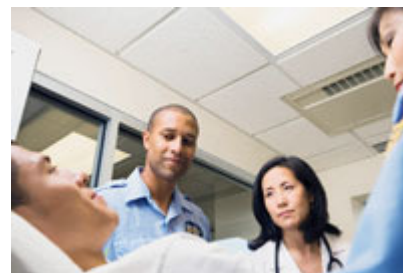
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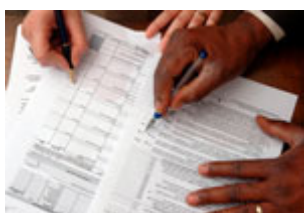
Health Care Reform & Grandfathered Plans

The Affordable Care Act specifically exempts "grandfathered plans" - those plans that were in effect on March 23, 2010 - from having to implement a number of the Act's requirements. Thus, it is vital for employers and administrators of these grandfathered plans to understand what changes they must make in 2010 and in future years.



IRS Releases

Revised Form 941 for HIRE Act



The IRS has issued the [newly revised payroll tax Form 941](#) which most eligible employers can use to claim the special payroll tax exemption that applies to many new workers hired during 2010.

Designed to encourage employers to hire and retain new workers, the payroll tax exemption and the related new hire retention credit were created by the Hiring Incentives to Restore Employment (HIRE) Act

The following is a timeline of required key changes to grandfathered health plans:

What Must Be Done in 2010

Extend Dependent Coverage Up to Age 26

For plan years starting on or after September 23, 2010, the new health law requires group and individual health plans that cover dependents to continue to make dependent coverage available until age 26. This requirement applies to grandfathered as well as non-grandfathered plans. However, for plan years beginning before Jan. 1, 2014, grandfathered group health plans offering dependent coverage will not need to make this coverage available if the adult child is eligible to enroll in another employer-sponsored health plan.

Prohibit Lifetime Limits

For plan years starting on or after September 23, 2010, grandfathered health plans may not impose lifetime limits on coverage for "essential health benefits." Essential health benefits will be further defined by the U.S. Department of Health and Human Services (HHS).

Restrict Annual Limits

For plan years starting on or after September 23, 2010, grandfathered group health plans are prohibited from imposing annual limits on essential health benefits other than restricted annual limits to be set by HHS. Effective Jan 1, 2014, grandfathered group health plans may not set any annual limits on essential benefits coverage.

Drop Pre-Existing Condition Exclusions for Children

For plan years starting on or after September 23, 2010, grandfathered

signed by President Obama on March 18, 2010.

The payroll tax exemption is an exemption from the employer's 6.2 percent share of social security tax on all wages paid to qualified employees from March 19, 2010 (the day after the date of enactment of the HIRE Act) through December 31, 2010. The employee's 6.2 percent share of social security tax and the employer and employee's shares of Medicare tax still apply to all wages.

In addition, for each qualified employee retained for at least a year whose wages did not significantly decrease in the second half of the year, businesses may claim a new hire retention credit of up to \$1,000 per worker on their income tax return. Further details on both the tax credit and the payroll tax exemption can be found in a recently-expanded list of answers to [frequently-asked questions](#) about the new law now.

How to Claim the Payroll Tax Exemption

[Form 941](#), Employer's QUARTERLY Federal Tax Return, revised for use beginning with the second calendar quarter of 2010, can be filed by most employers claiming the payroll tax exemption for wages paid to qualified employees. The HIRE Act does not allow employers to claim the exemption for wages paid in the first quarter but provides for a credit in the second quarter. The instructions for the new Form 941 explain how this credit for wages paid from March 19

group health plans must not exclude children on the basis of pre-existing conditions. Effective Jan. 1, 2014, group health plans may not impose pre-existing condition exclusions on adults or children.

No Rescission of Coverage

For plan years starting on or after September 23, 2010, grandfathered health plans are prohibited from rescinding a participant's coverage, absent fraud or an intentional misrepresentation of material fact.

Required Change in 2011

No Reimbursements for Over-the-Counter Drugs Not Prescribed

For expenses incurred after Dec. 31, 2010, distributions from HSAs or Archer MSAs, or reimbursements for FSAs or HRAs, qualify only if made for a medicine or drug that is a prescribed drug, or insulin. Over-the-counter medicine obtained with a prescription will continue to be a qualified medical expense.

What Grandfathered Plans Must Do in 2014

No Exclusions for Dependent Coverage

In 2014, grandfathered group health plans offering dependent coverage will need to continue to make this coverage available until age 26, even if the adult child is eligible to enroll in another employer-sponsored health plan.

No Annual Limits

In 2014, grandfathered group health plans may not set any annual limits on essential benefits coverage.

No Excessive Waiting Periods

For plan years starting on or after Jan. 1, 2014, grandfathered health plans may not apply waiting periods for coverage that exceed 90 days.

Future Changes to Grandfathered Health Plans

Employers and administrators should note that thus far, the Affordable Care Act does not provide guidance as to what extent a plan can be changed without losing grandfathered status. Changes relevant to a plan's continuing status as "grandfathered" might include changes in premiums, deductibles, and types of coverage.

All about Summary Plan Descriptions (SPDs)

Participants or beneficiaries receiving benefits under an ERISA-covered retirement or health plan must receive a Summary Plan Description or SPD. ERISA requires the plan administrator to provide the SPD to plan participants free of charge. The SPD is an important document that informs participants what the plan provides and how it operates. SPD information includes:



- When an employee can start to participate in the plan;
- How service and benefits are calculated;
- When benefits become vested;
- When and in what form benefits are paid; and
- How to file benefits claims

through March 31 can be claimed on the second quarter return.

DOL Publishes Final Rule on Child Labor



The U.S. Department of Labor has published a [final rule](#) that revises the child labor regulations to federal Fair Labor Standards Act. The final rule revises the child labor regulations to incorporate statutory amendments to the Fair Labor Standards Act, and to update and clarify the regulations that establish protections for youth employed in nonagricultural occupations.

The new regulations give employers clear notice that there are certain jobs children are not permitted to perform, according to U.S. Secretary of Labor Hilda Solis. They also expand opportunities for young workers to gain safe, positive work experience in fields such as advertising, teaching, banking and information technology, as well as through school-supervised work-study programs.

The revisions also implement specific recommendations made by the National Institute for Occupational Safety and Health in its 2002 report to the Department of Labor. The

Administrators should also note that if a plan is changed, participants must be informed. The notification of the change must occur either through a revised SPD, or in a separate document called a Summary of Material Modifications (SMM). These notices must also be given to participants free of charge.

The SPD - a Legal Document

Because the SPD of a retirement or health plan discloses such important information to participants about the plan, and ERISA plans are contractual in nature, the summary can be a legally binding document. Thus, administrators should carefully review the terms included in the SPD. Any plan administrator who creates or changes a summary using a boilerplate document should consult with a benefits specialist or attorney before distributing the SPD to participants.

Written in Plain English

As the plan "summary," the SPD should be easy to understand. In fact, U.S. Department of Labor regulations actually require the summary to be written in language that average plan participants can understand. Technical terms should therefore be used only when necessary. You should also define any unclear terms. Finally, you may want to add graphics to your SPD so participants can quickly locate key information, such as vesting periods, benefits calculations and eligible beneficiaries. You can do this with charts, boxes or bullet points.

Consider Distributing the SPD Electronically

The administrator of an employee benefit plan can furnish documents to participants and beneficiaries through the use of electronic media, if it meets certain requirements under ERISA regulations. The regulations essentially require that unless the participant, beneficiary, or other individual has access to documents as part of his or her job duties, the individual must consent to receive them electronically. The plan administrator has to take steps to confirm that the individual can truly receive electronic documents through email or other electronic means. Notice must also be given to individuals of their right to withdraw their consent to electronic delivery at any time without charge, and their right to obtain paper copies of the documents upon request. For more information on distributing plan documents through the use of electronic media, please [click here](#).

For the convenience of plan participants, consider creating a file of the SPD that can be viewed on a company intranet. By doing so, the summary can be quickly revised (with the proper notice given) and always be accessed by participants. If you post multiple SPDs on a company intranet, make sure each summary is separately grouped so users can easily understand which plan summary they are viewing.

For more information from the DOL on SPDs, please [click here](#).

Going Paperless - Is It Right for Your Company?

Decreasing or eliminating the use of paper from your business operation will potentially save your company money, time and physical space.

Many managers and workers tend to think and perform better when their work environment is well-organized and free of clutter. Going paperless can really liberate more office space and streamline your business environment.



Less Paper Equals More Savings

Eliminating paper provides a number of clear cost savings. First, there

Department of Labor is revising the regulations to incorporate the 2008 amendment to section 16 (e) of the Fair Labor Standards Act that substantially increased the maximum permissible civil money penalty an employer may be assessed for child labor violations that cause the death or serious injury of a young worker. The effective date of the rule is July 19, 2010.

To view the final rule in the *Federal Register*, please [click here](#).

New Office of Consumer Information and Insurance Oversight (OCIIO) Implementing Health Care Reform

The Department of Health and Human Services (HHS) has been entrusted with the responsibility for implementing many major provisions of the health care reform bill, the [Patient Protection and Affordable Care Act](#), as amended by the Health Care and Education Reconciliation Act of 2010. Accordingly, the Office of Consumer Information and Insurance Oversight (OCIIO) has been established to help HHS implement many of the provisions of the legislation that address private health insurance.

OCIIO is responsible for ensuring compliance with the new insurance market rules, such as the prohibitions on rescissions and on pre-existing condition exclusions for children that take effect this year. The Office will oversee

are the costs for paper, file cabinets as well as those associated with photocopying. Then, depending on the amount of paper you accumulate, you may need additional employees to collect and organize files.

Save Time & Increase Productivity

Decreasing the amount of paper your company uses, combined with an efficient electronic document system, can directly correlate to increased productivity. For example, storing shared documents on a company server will allow workers to upload files and collaborate on projects without having to exchange multiple hard copies with their colleagues. As files are edited and updated, they can be discarded or kept with labeled dates. In addition to the cost savings of going paperless, if your employees can quickly and efficiently take care of their administrative responsibilities with electronic documentation, they will have more time to spend on other tasks.

Establish an Organized System for Company Documents

Making some office procedures paperless but not others can create a very confusing situation. If you have to search both file cabinets and server folders for a document, you may end up taking more time than you did before the reorganization. You may also create office confusion as to which files are now electronic, potentially wasting more employee time. If you do decide to go paperless, remember that technology alone is not a substitute for a structured, organized approach to your company's documents. Decide on consistent procedures and communicate them to your employees. In the long run, your business will be better off for it.

Be Sure to Back-Up Your Important Documents

As your business grows, you may find the information your company accumulates increases right along with the size of your company. It's not all that hard to lose track of an important document here and there. For important paper documents that you receive, it's always a good idea to scan and create a PDF version. Then, if a document or file should be misplaced, you can simply reprint it. As an extra backup, email files to yourself and/or others so they can be accessed anywhere. Finally, you may also want to consider installing a nightly backup of all the documents that reside on your server to a separate hard drive so that in the event your server should do down, your company documents are safe.

Your Business & Charitable Donations

Does your business participate in charitable giving? Supporting causes that are worthwhile to companies and employees can be rewarding enough, but there are also potential tax advantages. If you are considering making a donation, you first need to ensure that the charity is a [qualified organization](#) as defined by the IRS. For more information on charitable contributions from the IRS, please [click here](#).



According to the IRS, the organization must be structured and operated for one or more limited purposes, including religious, charitable, educational, scientific, literary, or the prevention of cruelty to children or animals. Certain other purposes include war veterans' organizations and those that foster amateur sports competition. You can [search here](#) for an online list of organizations eligible to receive tax-deductible charitable contributions.

Before Donating - Review the Charity Checklist

the new medical loss ratio rules and will assist states in reviewing insurance rates. OCIO will provide guidance and oversight for the state-based insurance exchanges. It will also administer the temporary high-risk pool program and the early retiree reinsurance program, and compile and maintain data for an internet portal providing information on insurance options.

The OCIO website contains information on Initiatives and Programs of the Office, such as medical loss ratios and the high-risk pool program, Regulations and Guidance, including requests for comments, Gathering Insurance Information, and FAQs about the Office. To visit the OCIO website, please [click here](#).

The Federal Trade Commission (FTC) has established a [Charity Checklist](#) to help ensure that your donation dollars benefit the people and organizations you want to support. These tips are particularly useful if you're solicited by an organization's employees or volunteers by phone, mail or e-mail. The following are a number of important tips featured in the FTC's Charity Checklist.

- *Be careful to scrutinize charities that spring up quickly in connection with current events or natural disasters.* They may make a compelling case for your money, but they probably don't have the infrastructure to get the donations to the affected areas or people.
- *Request written information about the charity, including the name, address, and telephone number.* A legitimate charity or fundraiser will send you information about the charity's mission, how your donation will be used, and proof that your contribution is tax deductible.
- *Contact the office that regulates charitable organizations and charitable solicitations in your state to see if the charity or fundraiser must be registered.* Your state office also can verify how much of each dollar donated goes to the charity, and how much goes to fundraising and management expenses.
- *Don't be shy about asking who wants your money.* Some charities hire professional fundraisers for large-scale mailings, telephone drives, and other solicitations rather than use their own staff or volunteers, and then use a portion of the donations to pay the fundraiser's fees. If you're solicited for a donation, ask if the caller is a paid fundraiser, who they work for, and the percentage of your donation that will go to the charity and to the fundraiser. If you don't get a clear answer -consider donating to a different organization.
- *Call the charity.* Find out if the organization is aware of the solicitation and has authorized the use of its name. If not, you may be dealing with a scam artist.
- *Check with local recipients.* If giving to local organizations is important to you, make sure they will benefit from your generosity. If a charity tells you that your dollars will support a local organization, like a fire department, police department, or hospital, call the organization to verify the claim.
- *Inquire whether your contribution is tax deductible.* It is important to ask for a receipt showing the amount of your contribution and stating that it is tax deductible.

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