2014

90-Day Limitation on Waiting Periods

In plan years beginning on or after January 1, 2014, a group health plan or group health insurance issuer may not apply any waiting period that exceeds 90 days. A waiting period is the period of time that must pass before coverage for an employee or dependent who is otherwise eligible to enroll under the terms of a group health plan can become effective.

Availability of Health Insurance Exchanges

Exchanges are expected to begin operating in 2014 as an option for individuals to buy private health insurance. Exchanges will also operate a small business health options program (SHOP) as an option for qualified small employers to purchase employee health coverage. Businesses with up to 100 employees will be eligible to participate in SHOPs, although states may limit participation to businesses with up to 50 employees until 2016.

Coverage of Essential Health Benefits

Non-grandfathered plans offered in the small group market (both inside and outside of exchanges) must cover a core package of items and services known as "essential health benefits" beginning in 2014. Proposed rules have been issued which outline issuer standards related to coverage of these essential health benefits.

Dependent Coverage to Age 26 for Grandfathered Plans Without Exception

The temporary exception for grandfathered plans from the requirement that dependents be covered to age 26 no longer applies for plan years beginning on or after January 1, 2014. As a result, both grandfathered and non-grandfathered group health plans that cover dependents must make coverage available until a child reaches age 26, regardless of other coverage options.

Employer Shared Responsibility ("Pay or Play")

Beginning in 2014, employers with 50 or more full-time equivalent employees may be required to make an annual shared responsibility payment if any full-time employee is certified to receive a premium tax credit or cost-sharing reduction payment.

1. If an employer does not offer its full-time employees and their dependents the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, the penalty amount is $2,000 for each full-time employee (excluding the first 30 full-time employees).
2. If an employer offers the opportunity to enroll in minimum essential coverage that is either unaffordable relative to an employee's household income or does not provide minimum value, the penalty is the lesser of $3,000 for each full-time employee receiving a tax credit or cost-sharing reduction, or $2,000 for each full-time employee (excluding the first 30 full-time employees as above).

Coverage is unaffordable for an employee if the required contribution for self-only coverage exceeds 9.5% of household income for the taxable year. (**Note:** At least through the end of 2014, employers may rely on a safe harbor if the coverage offered is affordable **based on the employee's Form W-2 wages**.) An eligible employer-sponsored plan generally provides minimum valueif the plan pays for at least 60% of covered health care expenses.

Newly issued proposed rules and a series of related questions and answers have been issued providing additional guidance on the shared responsibility ("pay or play") requirements under Health Care Reform. Under the proposed rules, an employer who is subject to the requirements would generally be treated as offering coverage to its full-time employees for a calendar month if, for that month, it offers coverage to **95% of its full-time employees**. The proposed rules provide a number of transition relief provisions, including for employers sponsoring plans that do not operate on the calendar year (i.e., fiscal year plans), as well as relief to help employers that are close to the 50 full-time employee threshold determine their options for 2014. Employers may rely on the proposed rules for guidance pending the issuance of final regulations or other applicable guidance.

Expanded Medicaid and CHIP: See Special Update Below

By 2014, states would be required to extend Medicaid coverage to all individuals under 65 who have incomes up to 133% of the federal poverty level. The law would also fund the Children's Health Insurance Program through 2015, and require states to maintain the current eligibility levels for children in the Medicaid and CHIP programs.

Special Update: The U.S. Supreme Court has ruled that the portion of the law which threatens states' existing Medicaid funding for failure to comply with the requirements related to expanding the scope of Medicaid coverage is unconstitutional.

Guaranteed Availability of Coverage and Limits on Variations in Premiums

For plan years beginning on or after January 1, 2014, issuers offering non-grandfathered group plans must accept every employer that applies for coverage, with certain exceptions. Issuers that offer coverage in the small group market must limit any variation in premiums with regard to a particular plan or coverage to age and tobacco use (within limits), family size, and geography. Proposed rules have been issued to implement these requirements.

Individual Mandate

Starting in 2014, the law will require most U.S. citizens and legal residents to obtain health insurance. Increasing levels of penalties will be assessed on certain individuals who do not obtain coverage.

No Annual Limits or Preexisting Condition Exclusions

All annual dollar limits on coverage of "essential health benefits" are prohibited for group health plans issued or renewed beginning January 1, 2014.

Also effective for plan years beginning on or after January 1, 2014, group health plans are not permitted to exclude individuals from coverage or limit or deny benefits on the basis of preexisting medical conditions. (The prohibition on exclusions of children under 19 years of age on the

basis of pre-existing conditions began 6 months from the date the law was enacted.)

Premium Subsidies

In 2014, the law will provide tax credits to individuals and families with incomes above Medicaid eligibility and below 400% of the Federal Poverty Level to buy coverage through state-based Exchanges. These individuals and families would be entitled to the credits if they are not eligible for or offered other "acceptable coverage."

The IRS has issued final regulations relating to the tax credit. Please click here for more information.

Small Business Tax Credit

For up to two years starting in 2014, eligible small businesses (generally those with fewer than 25 full-time equivalent employees with average annual wages below $50,000) that buy health coverage through a SHOP and pay at least half of the premium cost for employees may receive a tax credit of up to 50% of the contribution.

Repeal of Free Choice Voucher Requirement: See Special Update Below

Special Update: President Obama has signed into law a bill that eliminates the requirement under the Affordable Care Act that employers provide free choice vouchers to certain employees.

Beginning in 2014, employers who offer health insurance coverage would have been required to provide a "free choice" voucher for purchasing health care through state-based Exchanges to qualifying employees whose household incomes were at or below 400% of the federal poverty level and whose required premium contributions for the employer's coverage would be between 8% and 9.8% of their household income. The dollar amount of the voucher would have been equal to the premium contribution the employer would have paid on behalf of the employee under the employer's plan.

The provision was repealed as part of the Department of Defense and Full-Year Continuing Appropriations Act of 2011.

Wellness Programs

Wellness programs that require an individual to satisfy a standard based on a health factor in order to obtain a reward must comply with specific nondiscrimination rules under HIPAA (the Health Insurance Portability and Accountability Act). For plan years beginning on or after January 1, 2014, the maximum permissible reward that may be offered for such programs is increased from 20% to 30% of the cost of coverage (proposed rules further raise the maximum from 20% to 50% for wellness programs designed to prevent or reduce tobacco use).