

# MILLENNIUM UPDATE

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Healthcare Reform is a hot topic these days for employers, especially within their human resources and benefit departments. This legislation is continually evolving through congressional acts and court decisions, making it difficult to plan for the future of healthcare and benefit strategies.

Although very few of the bill's provisions are set in stone, this communication will summarize the current status of the law and review the 2011 compliance mandates. **You can browse through select topics using the links at the left.**

Please know that we are closely monitoring this dynamic issue in the nation's capital, the courts, and the marketplace and will continue to keep you and your company in compliance and in-the-know.

## W-2 Reporting

- Employers required to report the cost of employer-provided healthcare coverage on W-2s
- Optional for small employers (fewer than 250 W-2s) for 2012 forms
- For information on how to report, what coverages to include, and how to determine the cost of the coverage, visit <http://www.irs.gov/pub/irs-drop/n-11-28.pdf>.

## Imputed Income Requirement

- Employers in Georgia, Hawaii, Indiana, Minnesota, and Wisconsin may be required to impute income either for state or federal income tax purposes.
- Employers should consult tax advisors to determine specific compliance action to be taken.
- For federal income tax purposes, amount required to be imputed will be the fair-market value of the healthcare coverage (e.g., the COBRA rate minus the 2% administrative fee).
- For state income tax purposes, amount imputed is likely the fair-market value of the coverage, but ultimately depends on the specific state law.

## Elimination of Funding for the Free Voucher Program

- The Free Choice Voucher Program of PPACA was repealed.

This program would have required employers that offer coverage to provide any

employee with income less than 400% of the poverty level a free-choice voucher if the employee's cost of coverage under the employer-sponsored plan was more than 8%, but less than 9.8%, of such employee's household income.

## Age 26 Mandate and Pre-X for Children

- Effective with the first plan year beginning on or after September 23, 2010
- Employers providing dependent coverage required to cover employees' adult children up to age 26
- Applies regardless of whether the child is a student, resides with the participant, or is declared as a dependent on a parent's income tax return.
- Group health plans are no longer allowed to deny coverage to children under age 19 with pre-existing conditions.

## Breaks for Nursing Mothers

- Employers required to provide nursing mothers with reasonable breaks to express breast milk for their nursing children up to one year, as well as provide a private space for such activity.

## Grandfathered Health Plans

- Any employer-sponsored health plan that was in existence on March 23, 2010.
- Exempt from some but not all PPACA requirements.
- Employers can lose grandfathered status if plan changes significantly cut benefits or increase cost for employees.
- New amendment introduced: employers can change insurance carriers and maintain status as long as the new benefits meet the other criteria.

## Health Insurance Exchanges

- State health insurance exchanges to be required by 2014.
- Many states have already started implementing statewide insurance exchange systems.

## HSA Penalty Increased

- Effective January 2011, penalty for withdrawing pretax funds from an HSA for non-eligible expenses increased from 10% to 20% to discourage unauthorized use.

## Lifetime and Annual Limits

- Employer-provided coverage required to eliminate lifetime limits on essential benefits coverage
- Currently annual limits are "restricted" on essential benefits.
- In 2014 annual restrictions will be banned altogether.

## Medicaid - Expanded Coverage

- States able to receive federal matching funds for covering some additional low-income individuals and families under Medicaid for whom federal funds were not previously available.

## Medical Loss Ratios

- Beginning January 2011, health insurance companies required to spend at least 80% to 85% (depending on the plan's size) of premiums on medical care and quality improvement for patients.

## Medicare Prescription Drug Gap Relief

- Eligible seniors who hit Medicare prescription drug "donut hole" will receive one-time, tax-free \$250 rebate check.
- First checks were mailed in June 2010 and will continue monthly as seniors hit the coverage gap.

## Non-Discrimination Rules for Insured Health Plans

- The IRS may issue guidance on the new nondiscrimination requirements applicable to insured group health plans which prevent discrimination in favor of highly compensated employees.
- The effective date for these requirements is the plan year beginning on or after September 23, 2010 (non-grandfathered plans).

## Over-the-Counter Medications

- Beginning January 2011, individuals may no longer use funds from their Flexible Spending Accounts (FSAs), Health Savings Accounts (HSAs), or Health Reimbursement Arrangements (HRAs) for over-the-counter (OTC) drugs with a prescription from a doctor.
- December 23, 2010, the IRS issued a notice (Notice 2011-5) with accompanying questions and answers that reversed its position on the use of debit cards to purchase OTC medicines.
- As of January 11, 2011 under certain conditions, health FSA and HRA debit cards may continue to be used to purchase OTC medications at the following businesses: pharmacies, drug stores, and grocery stores if those stores have pharmacies, and mail order and Web based vendors that sell prescription drugs.
- Note that a prescription is required.

## Preventive Care Changes

- Beginning in 2011, health plans required to provide certain preventive care services without cost sharing
- Includes some immunizations and annual or preventive exams for all age groups.
- Patients no longer required to obtain authorization from PCP before seeing an obstetrician or gynecologist.

- A complete list of the preventive care services covered can be found at: [www.healthcare.gov/law/about/provisions/services/lists.html](http://www.healthcare.gov/law/about/provisions/services/lists.html).

## Provider Assistance

- New financial incentives in the law were created to expand the number of primary care doctors, nurses, and physician assistants in order to increase access to these basic care providers.
- Financial incentives were also created to help rural health care providers continue to serve their communities.

## Rescission of Coverage

- Employer health plans are now prohibited from retroactively rescinding or canceling health care coverage, except in the case of fraud or intentional misrepresentation.

## Senior Provisions

- Medicare Prescription Coverage - Seniors who reach the coverage gap will receive a 50 percent discount when buying Medicare Part D covered brand-name prescription drugs. Over the next ten years, seniors will receive additional savings on brand-name and generic drugs until the coverage gap is closed in 2020.
- Preventive Care covered at 100% for seniors - The law provides certain free preventive services, such as annual wellness visits and personalized prevention plans for seniors on Medicare.
- Community Care Transition Programs - The Community Care Transitions Program will help high risk Medicare beneficiaries who are hospitalized avoid unnecessary readmissions by coordinating care and connecting patients to services in their communities.
- Medicare Advantage Program - Currently there is a discrepancy between how much Medicare pays Medicare Advantage insurance companies vs. Traditional Medicare. The new law will address this while still guaranteeing quality care for those enrolled in Medicare Advantage plans.

## Small Business Tax Credit

- Effective in tax year 2010, small business employers (those with fewer than 25 full-time employees and average wages less than \$50,000) are now provided with a tax credit.

## Standardized Information Disclosure/Uniform Disclosure

- Employers and health plans have to distribute a benefit and coverage summary no later than 60-days prior to the effective date of any coverage change.
- Sample Uniform Disclosure models are available on the National Association of Insurance commissioners (NAIC) web-site. Standards for complying with this regulation have not yet been released.

## Subsidies for Early Retiree Coverage

- Created to preserve employer coverage for early retirees until more affordable coverage is available through the new exchanges by 2014
- New law creates a \$5 billion program to provide needed financial help for employment-based plans to continue to provide valuable coverage to people who retire between the ages of 55 and 65, as well as their spouses and dependents.
- Applications for employers to participate in the program were available June 1, 2010.

## Healthcare Reform in 2012 and Beyond

- [Follow this link](#) to access additional information concerning the required provisions on the horizon for 2012 and beyond.

We hope this information provides some assistance in drilling down to the key factors of Healthcare Reform that are affecting businesses and consumers in 2011.

Be on the lookout for future updates on this and other topics that may be of importance to you and your organization's benefit strategies.

**Sincerely,**

Keith Tallmadge and  
The Team at Millennium Benefits Consulting