
Health Care Reform Compliance in 2012 and Beyond... Are You on the Right Track?

By Kristi R. Gauthier / Nov 26, 2012

As 2012 is quickly coming to an end, it is a good time for employers and plan sponsors to take note of the numerous requirements under the Patient Protection and Affordable Care Act ("PPACA"). Below is a summary of some of the important upcoming PPACA deadlines impacting employers and employer-sponsored group health plans in 2012 and beyond.

2012

- **W-2 Reporting** : Employers who filed at least 250 Form W-2s for the preceding calendar year (i.e., for the 2011 year) must report the cost of employer-sponsored health care on employees' 2012 W-2s.
- **Summary of Benefits and Coverage ("SBC") and Uniform Glossary** : Plan sponsors must prepare and distribute a SBC and Uniform Glossary beginning with the first open enrollment period or plan year beginning on or after September 23, 2012.
- **60 Day Advance Written Notice of Plan Changes** : Effective September 23, 2012, group health plans and health insurance issuers must provide 60 days' advance written notice of any material modifications to the group health plan that are not related to renewals of coverage. This notice can be provided in the form of an updated SBC or as a separate Summary of Material Modifications.

2013

- **Health Flexible Savings Accounts (FSA) Employee Contribution Cap** : Effective with the first plan year beginning on or after January 1, 2013, the employee maximum contribution amount under a health FSA plan is limited to \$2,500. Plan documents must be formally amended, if necessary, to reflect this change no later than December 31, 2014.
- **Medicare FICA Tax Increases** : Effective for taxable years beginning on and after January 1, 2013, PPACA provides for an increase in the Medicare payroll tax by 0.9% on wages and earned income in excess of \$200,000 for single filers, and \$250,000 for joint filers. Employers must withhold the employee's share, but PPACA does not increase the employer's share of FICA Medicare tax.
- **Notice of Exchange Option** : Effective March 1, 2013, and in accordance with agency guidance to be issued, employers must provide notice to employees of the existence of State exchanges, information regarding premium tax credits and cost-sharing reductions through the exchanges, and options and implications of obtaining health care through an exchange.
- **Comparative Clinical Effectiveness Research Fees** : Effective July 31, 2013, certain health insurance issuers and self-funded health plans will be required to pay a temporary annual fee of \$2.00 (\$1.00 during the first year the provision is applicable), indexed for inflation starting in 2014, times the average number of covered lives under the health plan for the year to the IRS on Form 720. The fees will be used to fund the Patient-Centered Outcomes Research Institute. The fee must be paid on the July 31st following the plan year (for example, July 31, 2013 for the 2012 plan year) and is scheduled to end for plan years ending after September 30, 2019.

2014

- **Employer Shared Responsibility Penalties** : Large employers (those with 50 or more full-time equivalent employees) must provide health coverage that meets affordability and minimum value requirements or face penalties if one or more full-time employees obtains a premium credit and obtains coverage on a State insurance exchange.
- **Wellness Programs** : The reward/incentive limit under a wellness program increases to 30% effective January 1, 2014.
- **Pre-existing Condition Exclusions** : Effective for plan years beginning on or after January 1, 2014, pre-existing condition exclusions are no longer allowed in group health plans.
- **Waiting Periods** : Effective for plan years beginning on or after January 1, 2014, group health plans may not impose waiting periods in excess of 90 days.
- **Annual Limits** : Effective for plan years beginning on or after January 1, 2014, group health plans may no longer include annual limits on essential health benefits for participants.

2018

- **"Cadillac Plan" Tax** : Effective January 1, 2018, employers sponsoring a health plan with an aggregate value greater than \$10,200 for individual coverage and greater than \$27,500 for family coverage (indexed annually) will be assessed an excise tax based upon the excess value of coverage and the number of participants in the plan.

Provisions with Unknown Effective Dates

- **Automatic Enrollment** : Employers with more than 200 full-time employees who sponsor a group health plan will be required to automatically enroll full-time employees in health coverage. The original effective date for this provision was January 1, 2014, but the Department of Labor has postponed compliance until further guidance is issued.
- **Insured Plan Nondiscrimination Testing** : Non-grandfathered insured health plans will be subject to similar nondiscrimination rules as self-insured plans, which generally prohibit discrimination in favor of highly compensated employees. The Internal Revenue Service has delayed implementation

of these rules until further guidance is issued.

If you have any questions, please contact:

Ed Hammond at (248) 988-1821 / ehammond@clarkhill.com ;

Kristi Gauthier at (248) 988-5854 / kgauthier@clarkhill.com ;

or Stephanie Hicks at (248) 988-5893 / shicks@clarkhill.com .