

Reminder-Rapidly Approaching Benefits and HR Deadlines

07.19.13

Special Enrollment Periods as the Result of the U.S. Supreme Court Decision on the Defense of Marriage Act

When the U.S. Supreme Court struck down the section of the Defense of Marriage Act that required marriage to be between one man and one woman to be recognized for federal laws, it opened the door to make same sex marriages in existence immediately recognized for federal law purposes. In response to this, the federal Office of Personnel Management immediately opened a sixty day special enrollment period for same sex spouses to enroll as married in the Federal Employee Health Plan. While HIPAA lately has meant privacy and security to many, in 1996 it also enacted special enrollment periods, one of which was for an employee being married. While we have not yet received guidance from the IRS or U.S. Department of Labor on the HIPAA special enrollment provisions, your health plans may receive requests for special enrollment periods to enroll spouses that became recognized under federal law on June 26, 2013. For insured plans, check with your carrier regarding which spouses they will recognize and when and if they will accept same sex spouses enrolled in a special enrollment period following the decision and if that special enrollment period must conclude by a certain date for the carrier to accept the newly enrolled spouses.

If you have not decided how your company will determine what constitutes marriage for purposes of its policies and plans, place of ceremony, current place of residence, or some other state standard, require a government issued marriage certificate or some combination or other method, you should consider this as you investigate where the term spouse is used in plans, insurance policies, company policies, company data in the HRIS system, etc. to be prepared when guidance may be issued by the various government agencies.

PCORI Tax on Form 720 is Due July 31, 2013 for Calendar Year Health Plans

Please remember to count the covered persons in your health plans in compliance with the PCORI final regulation requirements and file and pay the applicable PCORI tax by July 31, 2013. The IRS released the final Form 720 last month and it is available on their website.

Form 5500s for Calendar Year Plans for the 2012 Plan Year are Due July 31, 2013

If your audits or Forms 5500 will not be completed and filed by the deadline, remember to request an extension by July 31, 2013, and retain proof that you filed the request for extension in a timely manner.

HIPAA Privacy and Security Regulatory Changes

While the amendments to the HIPAA Privacy regulations were issued in January and the corrections to those regulations were issued in June, the deadline for getting your health plan in compliance with those changes remains September 23, 2013, which is two months from this coming Tuesday. The corrections made it very clear they were not changing the compliance deadline. While there is a brief reprieve for updating some business associate agreements, there is no delay in the requirements for updating your policies and procedures, forms or for retraining the persons who have contact with protected health information in your organization (e.g., accounting, legal, human resources or people departments and other departments that may have a need to come into contact with the health plan's protected health information). We have forms and training and can assist you with this in a manner that is tailored to your health plan and organization.

Calendar Year Plan Open Enrollment Reminder

Remember as you are preparing your open enrollment period materials and your health plan communication materials for the 2014 calendar year, the mandated changes in coverage that go into effect on January 1, 2014, are still in effect and there is no delay for these mandates, e.g., no pre-existing condition exclusions for any person, mandated coverage of clinical trials, changes in preventive coverage, new wellness program rules, limitations on out of pocket expenses, limiting waiting periods to 90 days, and modified summary of benefits and coverage disclosures.

There are subtle changes that are triggered by some of these changes to your COBRA notices and election forms, your cafeteria plan change in status provisions and to your procedures related to both of those as well as your procedures for issuing certificates of creditable coverage which must continue to be issued through December 31, 2014.

If you have any questions regarding the above, please do not hesitate to contact any of the undersigned attorneys. Thank you for giving us the opportunity to work with you.

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