BERNSTEIN SHUR

COUNSELORS AT LAW

Health Care Reform Newsletter #2

Important Provisions Effective in 2010-2011

By Steven R. Gerlach | June 11, 2010

As noted in my earlier newsletter, Congress recently passed health reform legislation that will significantly change health care delivery and health insurance in the U.S. To provide you with useful and timely information about the new law, I will continue to send this series of newsletters in the coming months. Each newsletter will examine a different major aspect of the new health law. This newsletter—which is the second in the series—provides a brief description of several important provisions of the new law that become effective in 2010 or 2011.

- Insurance Market Reforms. Effective beginning September 23, 2010, the following provisions must be included in any employer-based health plan that does not qualify as a "grandfathered plan" (which is a plan that has not been substantially modified since March 23, 2010):
    - Must allow for coverage of all an employee's dependents up to age 26
    - No cost sharing on preventative services
    - Restrictions on annual benefit limits
    - No lifetime benefit limits
    - Must cover preventive care
    - Nondiscrimination coverage requirements apply to insured group health plans
    - Coverage waiting periods cannot exceed 90 days
    - Pre-existing condition exclusions are forbidden
    - Women must be permitted to choose an OB-Gyn of their choice
    - New required benefit summaries

- Child Coverage Tax Exclusion. Effective March 23, 2010, health care expenses paid under an employer plan for any child of an employee under age 27 is treated as a non-taxable employee benefit.

- Small Employer Tax Credit. Effective for tax year 2010, small employers will receive a tax credit for amounts they pay for employee health coverage. "Small employers" are employers who have 25 or fewer full-time employees and whose employees have wages averaging no more than $50,000 per year. The amount of the tax credit varies on a sliding scale based on the number of employees and their average wage.

- Retiree Health Plans Subsidy. Beginning June 1, 2010, a temporary reinsurance subsidy will apply to retiree health plans. Retirees between the ages of 55 and 64 will qualify for a subsidy equal to 80% of actual health claims cost above $15,000 and under $90,000. The subsidy expires on January 1, 2014, or, if earlier, when the $5 billion of federal funds allocated to the program are exhausted.

- Simple Cafeteria Plans. "Simple cafeteria plans" will be available to small employers (100 or fewer employees) beginning January 1, 2011. The plans will be subject to relaxed nondiscrimination testing so long as certain other requirements are met.

- Reporting Requirements. W-2 reporting for the value of employer-provided health insurance will be required beginning January 1, 2011.

- New Medical Account Rules. Over-the-counter medications will generally no longer be reimbursable from health reimbursement accounts (HRAs), health savings accounts (HSAs), medical savings accounts (MSAs), and flexible savings accounts (FSAs) beginning January 1, 2011.

- Automatic Enrollment. Effective March 23, 2010, an employer with more than 200 full-time employees that offers one or more health plans must automatically enroll new full-time employees in one of the health plans it offers. Notice must be given to new employees, and they must be given the opportunity to opt out of coverage.

Stay tuned for my next newsletter on the new health law. It will cover the small employer tax credit in greater detail. If you would like more information about any aspect of the new law, please call Steve Gerlach at (207) 228-7128. If you would like to receive one of my prior newsletters on the new health law, please call Jade Letourneau at (207) 774-1200.