

## CLIENT BULLETIN

### *Health Reform Law – A Simple Look At Upcoming Compliance Dates Updated DOL COBRA Fact Sheet*

In this *Client Bulletin* we will take a simple look at upcoming compliance dates of interest to group health plans, including multiemployer health plans. For prior discussions see [Client Bulletins 2010-26 and 2010-28](#). In [Client Bulletin 2010-28](#) we discussed in detail the retiree reinsurance program and the difficulty in determining the impact of the “delayed” effective date for health plans established under collectively bargained plans, and the idea of “grandfathered plans.” We still hadn’t tied up the near-term changes in a nifty compliance chart - until this issue.

Our discussion of compliance dates will assume a group health plan on existence as of the date of the passage of the *PPACA* is a “grandfathered” plan. **REMEMBER MANY DETAILS ARE UNCLEAR AND NO ONE WILL REALLY KNOW ALL THE ANSWERS UNTIL GUIDANCE IS ISSUED...**

The following reforms are generally effective for Calendar Year plans the first plan year beginning on or after October 1, 2010, or January 1, 2011. The dates below DO NOT take into account any possible delayed effective date for collectively bargained plans. Check with fund counsel for their opinion on the CBA delayed effective date. Don’t be surprised if most are waiting for clarification from Health and Human Services (HHS).

### Compliance Dates

#### January 1, 2011 - Calendar Year Plan Changes Effective Date

- **Prohibition on lifetime maximums.**  
Plans may wish to evaluate stop-loss coverage.
- **Prohibition on “unreasonable” annual limits on essential benefits.**  
HHS will determine what is included in “essential benefits.” Plans may wish to evaluate stop-loss coverage.

- **Extension of dependent coverage to age 26.**

Plans must extend coverage to dependents even if married, only if they cannot obtain other coverage under another employer-sponsored health plan. What conditions, if any, a Plan can set on coverage is unclear. The new law cut the tax-free nature of dependency coverage loose from the "qualified child/qualified relative" of Code 152(c) and (d), making the only requirement that the "dependent" be a son, daughter, stepson, or stepdaughter of the taxpayer, an eligible foster child of the taxpayer or an individual who is adopted or placed for adoption with the participant.

Group health plans will probably have an affirmative duty to inform participants of the opportunity to re-enroll "aged-out" dependents.

- **No rescission of coverage except for fraud or misrepresentation.**

As written the text would prohibit rescission of coverage for non-payment, etc. The House Speaker's summary speaks of the change in terms of retroactive termination of coverage for individuals who incurred large claims. i.e. "cut loose the sick folks." This problem seemed to be more prevalent in the individual policy market though no doubt it may have been an issue in the group market.

- **No pre-existing condition limitations on children under age 19.**

Pre-existing condition exclusions are no longer allowed for children under age 19.

### **2011 - Reporting of the Cost of Employer-Sponsored Coverage on W-2s**

Beginning with tax years starting after December 31, 2010, (*i.e. the 2011 tax year, irrespective of "plan year"*), employers will have to report the "aggregate cost" of employer-sponsored health coverage on employees W-2s. How this will be applied to multiemployer plans is unclear. The value is not set to be taxed and may just be informational, though something about a "camel's nose under the tent" comes to mind.

### **2012 - Explanation Of Coverage And Definitions**

The Secretary of HHS is to develop standards for providing participants a 4-page or less summary that describes benefits coverage under the group health plan and that uses uniform definitions of standard insurance and medical terms, as well as other information. These standards are to be developed by March 23, 2011 and group health plans will be required to use such documents and information for participants and others by **March 23, 2012**. This is in addition to the current Summary Plan Description (SPD) requirements. Guidance will need to be issued, so set this one for follow-up in 2011.

## **2014 - Other Calendar Year Plan Changes Effective**

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In 2014, there are three other changes affecting group health plans:

- No annual limits on essential benefits.
- No pre-existing condition limitations apply to children or adults.
- No waiting periods longer than 90 days are allowed. The term "waiting period" means "the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan." How this will affect eligibility rules which may require a longer work period is unclear.

Many other changes were made by the law to the nation's health care delivery and reimbursement system. The larger structural reforms such as the establishment of [Health Insurance Exchanges](#) (to facilitate the purchase of health insurance for [small businesses](#)), [mandated coverage](#) and the [employer](#) "pay or play" rules do not come into effective until 2014.

### **How to Keep Up With Health Care Reform News**

The DOL, HHS, the White House and the IRS have set up health reform websites, as shown below:

- DOL: <http://www.dol.gov/ebsa/healthreform/>
- HHS: <http://www.healthreform.gov/>
- White House: <http://www.whitehouse.gov/healthreform>
- IRS: <http://www.irs.gov/newsroom/article/0,,id=220809,00.html?portlet=6>

Both HHS and the DOL offer email listservs for interested parties to sign up for email updates. HHS produces weekly webcasts, the next one is on Thursday, April 22 at 1pm, and the topic will be "*Health Reform And Seniors*". The HHS webcasts are at: [www.hhs.gov/live](http://www.hhs.gov/live).

The House Speakers Page has helpful broad-brush stroke summaries also, and is available at: <http://www.speaker.gov/newsroom/legislation?id=0361>.

In addition, the IFEBP collects information at its webpage at: <http://www.ifebp.org/Resources/News/TopicsInDepth/Health+Care+Reform+Discussion/default.htm>.

As always, fund counsel and your fund professionals are the ones most familiar with your plan and are always the first line of defense. We will continue to report on guidance as it is issued. To give everyone an idea of the challenge ahead, one industry report noted some experts expect some three million pages of regulations to be issued to implement the entire health reform package.

### **DOL Releases Updated Fact Sheet On New COBRA Subsidy Extension.**

The new *Fact Sheet* is available by "[clicking here](#)" or at:  
<http://www.dol.gov/ebsa/newsroom/fsCOBRAPremiumReduction.html>.

The Fact Sheet redefines an "assistance eligible individual" as the employee or a member of his/her family who elects COBRA coverage timely following a qualifying event related to an involuntary termination of employment that occurs at any point from:

- September 1, 2008 through May 31, 2010; or
- March 2, 2010 through May 31, 2010 if:
  - the involuntary termination follows a qualifying event that was a reduction of hours; and
  - the reduction of hours occurred at any time from September 1, 2008 through May 31, 2010 (a reduction of hours is a qualifying event when the employee and his/her family lose coverage because the employee, though still employed, is no longer working enough hours to satisfy the group health plan's eligibility requirements).

See [Client Bulletin 2010-29](#) for news on the COBRA premiums subsidy extension.

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