HUMAN RESOURCE ASSOCIATES
HR Consultants to Management

PERSONNEL NOTEBOOK

For Your Most Important Resource

HEALTH CARE REFORM

What Do We Have to Do and When Do We Have to Do It?

Part II

In the previous issue of *Personnel Notebook* we described the 2010 health care reform legislation and the requirements with which employers must comply. The two bills that make up the reform legislation are The Patient Protection and Affordable Care Act (PPACA), and the law that is basically an addendum to it, The Health Care and Education Reconciliation Act (HCERA). In the last issue, we covered the requirements from January 1, 2010 through 2013. In this issue, we will describe the additional requirements through 2018, which now include federal mandates not only on employers and insurance providers but also on employees and all U.S. citizens.

2013 (cont)

Medicare Costs Increase

High earners (single employees earning more than $200,000 or joint filers earning more than $250,000) will pay an additional 0.9 percent in Medicare taxes for a total of 2.35 percent. This increase is only for the employee and does not include an increase to the employer's match.

Those high earners will also pay Medicare taxes at a rate of 3.8 percent on their investment income (income from interest, dividends, capital gains, annuities, royalties, and rents). This tax is in addition to the Medicare cost increase.

2014

January 1 — Early Retirees Coverage Expires

The early retirees benefit coverage went into effect on June 21, 2010 (see previous *Personnel Notebook* Part I). This coverage, with benefits that are mostly paid for by the federal government, is provided to employees who retired before the health care bill became effective, and it expires in 2014. However, current reports (June 2010) now indicate that the funds for that coverage will be exhausted before the end of this year.

Individual Mandate

All U.S. citizens and legal residents will be required to have qualifying health coverage. Those who do not will be fined annually $695 per person (to a maximum of $2,085 per family) or 2.5 percent of all household income, whichever is greater. There will be exceptions for financial hardship or religious objections.

Employer Play or Pay the Employer Mandate

Employers that do not offer coverage, have more than 50 employees, *and* have at least one full-time employee who receives a premium assistance tax credit, must pay a penalty of $2,000 per each full-time employee. But they will not be charged for the first 30 employees. So, an employer with 70 employees that does not provide health coverage would pay a penalty of $80,000.

Employers who *do* offer coverage but have at least one full-time employee receiving a premium tax credit will pay $3,000 for each employee receiving the tax credit *or* $2,000 for each full-time employee, whichever is the lesser. It appears that part of the intent here is a type of heightened minimum wage action in that it is expected that employers, to avoid paying the heavy fees, will instead increase the pay of employees receiving tax credits to the level that will make them ineligible for the tax credits.

Large Employer Automatic Enrollment Requirement

All employers that offer coverage and have more than 200 employees will be required to automatically enroll employees in the company's lowest cost plan, as long as the employee does not sign up for employer coverage or does not opt out of coverage altogether. All automatic enrollments programs must include adequate notice and an opportunity for an employee to opt out of any coverage.

Insurance Exchanges for Individuals and Small Businesses

State-based American Health Benefit Exchanges and Small Business Health Options Program (SHOP) Exchanges, administered by a government agency or nonprofit organization, are to be in full operation and to be capable of providing qualified coverage for businesses with up to 100 employees. These Exchanges do not provide insurance coverage, but are more like centers where individuals and small groups can shop for providers. States that do not establish an Exchange will have an Exchange established for them by the federal government.

Note: Employers that do not provide coverage and don't pay the SHOP fees will be fined $100 per day for each day not in compliance. And if they try to entice a high-risk (sick) employee away from the company-provided health plan and toward the SHOP, they can incur severe penalties.

Guaranteed Renewability and Rating Requirements

Insurers must now guarantee the issuance and renewability of insurance coverage. They must also limit the criteria that can be used to vary the premiums rates to be based only on age, premium rating area, family composition, and tobacco use. This must equally apply to individuals, the small group market, and the state Exchanges.

Annual Limits

Lifetime limits, which will be disallowed as of September 23, 2010, will now be extended to include annual limits. Insurers will no longer be allowed to set any annual limits on coverage payouts.

New Limits on Waiting Periods

Insurers and plans must limit waiting periods for coverage to 90-days.

Wellness Incentives

Employers are encouraged to provide wellness plans that meet health-related standards. For plan years beginning on or after January 1, 2014, employers may offer employees rewards of up to 30 percent (in some cases 50 percent) of the cost of coverage for their participation in a wellness program.

Preexisting Condition Exclusions

Coverage exclusions for any preexisting health conditions are prohibited.

New Minimum Requirements for Health Insurance Plans

For plan years beginning in 2014, a health insurance provider that offers coverage in the individual or small-group market must ensure that such coverage includes the essential health benefits package as established by the federal government. That package includes the following general categories, and the items and services covered within those categories:

- Preventive services with no deductibles, wellness services, and chronic disease management
- Emergency services without prior authorization or network affiliation
- Ambulatory patient services
- Hospitalization
- Maternity and newborn care
- Rehabilitative and habitual services
- Pediatric services, including dental and vision
- Prescription drugs
- Laboratory services
- Mental health and substance abuse services, including behavioral health treatments

Note that states have the power to require health plans to provide additional benefits, but if they do, the state must pay the additional cost by paying enrollees directly or by contributing to their health plan.

Limits on Cost Sharing and Deductibles

Group health care plans may no longer include any annual cost sharing in excess of those that apply to Health Saving Accounts (HSAs).

2015

Pay or Play Penalties Increase

The federal government is scheduled to increase the penalty (or excise tax) for employers identified under the 2014 Employer Play or Pay–The Employer Mandate (as defined on the preceding page of this *Personnel Notebook*).

2016

States May Define the Size of a 'Small Employer"

States will now have the option of determining what size constitutes a small employer: 50 employees or 100 employees. However, under such a condition, an employer that grows from a small company into a large company can still use the SHOP program.

2017

States May Allow Large Employers to Use the Shop programs

States may now overrule the federal requirements about who may use the SHOP programs and may decide to allow large employers to participate in the SHOP Exchanges.

2018

January 1 — Excise Tax on Cadillac Plans

A 40 percent excise tax will be imposed on insurers of employer-sponsored health plans that have a total value of more than $10,200 for an individual and $27,500 for family coverage. These maximums will be adjusted by indexing them to U.S. inflation rates.

Many Americans are looking forward to the advantages of the new health care reform and many are not. The advantages are apparent, but that may be because selling it to those who are going to have to pay for it has become a high priority.

Proponents of the new law point out businesses will enjoy the tax credit and the new, lower-priced competition, employers will benefit from a healthier workforce, and there will be lower health care premiums for all with no new taxes. They also point out that employees will be more inclined to leave their jobs for better opportunities if they can keep their health insurance coverage.

Opponents of the law see it differently. They say that nothing in the law is designed to lower health care costs; it's primarily designed to get uninsured people insured.

Concerns about Health Care Reform

On two subjects, cost and rationing, concern and analysis are expanding.

Cost: In its new survey, Business and Legal Reports (BLR) finds that 99.4 percent of the top decision makers are concerned that the newer health care costs will have a negative impact on corporate costs. More than 50 percent called it a "critical concern." They felt that the legislative and regulatory requirements will become increasingly complex. More than 84 percent of them believed that the government should not have implement a universal health care system paid for with tax dollars.

In a recent Mercer survey, 25 percent of employers expect the requirement to cover adult children up to 26 years of age and the elimination of lifetime dollar limits to increase plan costs. The average employee age will become a factor as companies with younger employees will not likely see many 26-year-old dependents needing to be covered, while companies with older employees may see real increases.

More than 20 percent of employers surveyed say they are considering adding more tiers to their premium structures and increasing the cost of dependent coverage (but not to be age-based). They are also considering requiring children above a specified age to verify that no other coverage is available.

Many employers said that the new 40 percent excise tax on the more costly plans presents difficult concerns. If they reduce coverage for higher paid employees, then they will have difficulty attracting and keeping those employees. But, if they make no changes, the employees will face higher costs. Although proponents like the idea of employees leaving for greener grass, most employers do not see this as an advantage.

Industry consultants predict that most small employers will elect to drop coverage or not initiate it and pay the fines, as the cost of complying and the immense paperwork burden will not be sustainable.

Rationing: Opponents fear that rationing of medical services, already limited by the lack of qualified medical professionals and which will only be further strained by the millions of new patients entering the system, will result from this health care reform. They believe that we'll see the kind of service limits and long waiting times for more serious procedures that they believe is taking place in other countries. They feel that individuals should be making their own health care decisions and that the expected shortages will require the government to take over the role of deciding what and who to ration.

The largest government entitlement program since Medicare was established in 1965 is underway, and although Medicare is broken and is expected to go under in the near future, the new health care plan may either be the answer to America's desire to care for all its citizens or the beginning of the its Greece-like collapse.

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