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Employee Benefits | Life Insurance | Risk Management

TO: Clients of Sitzmann Morris & Lavis Insurance Agency

RE: Post-Election Health Care Reform Update and Timeline

With the election behind us, the path ahead is a little clearer. Control of the House and Senate is still divided, ensuring that any efforts to repeal the Patient Protection and Affordable Care Act (PPACA) will fail as the Republicans do not have the votes to override a Presidential veto.

There will be a scramble for many states to submit their plans for implementing their exchange by the November 16th deadline. With so many states potentially ending up with a federally run exchange, it will be a challenge for the federal government to get all the exchanges up and running by 2014.

The Departments of Treasury, Labor and Health & Human Services (HHS) are expected to issue much awaited guidance on the non-discrimination rules for fully-insured plans and auto enrollment for employers with over 200 employees. In addition, regulations are still needed on the pay or play penalty calculation and the definition of “minimum value” coverage that must be provided by employers.

Included in the timeline below are the provisions which impact employers. Unless otherwise noted, effective dates are for plan years beginning on or after the effective date, and provisions apply to both fully and self-insured plans.

Reform Provision	Effective Date
	2012
W-2 Reporting. Employers must start reporting of value of health benefits on W-2 forms.	January 1, 2012 – mandatory for 250+ W-2 employers. January 31, 2013 W-2s.
Women’s Preventive Services. Non-grandfathered plans must provide certain services at no cost.	Plan years beginning on or after August 1, 2012
Summary of Benefits & Coverage (SBC). Requires that a summary of benefits and coverage be provided to applicants and enrollees. Also requires a summary of changes be provided if an updated SBC is not provided.	Plan years beginning on or after September 23, 2012
	2013
Limits FSA contributions for medical expenses to \$2,500 per year.	January 1, 2013



Reform Provision	Effective Date
Elimination of employer deductible subsidy under Medicare Part D	January 1, 2013
FICA increase of 0.9% for those earning \$200,000 individually or \$250,000 if married.	January 1, 2013
Threshold for itemized deduction for unreimbursed medical expenses increased from 7.5% of AGI to 10% of AGI for regular tax purposes. The increase would be waived for individuals age 65 and older for tax years 2013 through 2016.	January 1, 2013
Notice of Exchange. Employers must provide notice to employees of availability of State Exchanges.	March 1, 2013
Comparative Effectiveness Research fee. New federal premium fee on fully-insured and self-insured group health plans to fund comparative effectiveness research (CER). First year fee is \$1 per covered life, increasing to \$2 in second year and adjusted thereafter.	July 31, 2013 first payments are due for plan years ending in 2012. Effective plan years ending on or after October 1, 2012 and before October 1, 2019. Fully-insured, remitted by carrier. Self-insured, by employer.
	2014
Annual fees on private health insurers based on net premiums written after December 31, 2008 and third party agreement fees received after December 31, 2008. \$58.8 billion over 5 years starting in 2014; \$14.3 billion/ year trended after 2018. <u>Does NOT apply to self-insured plans.</u>	January 1, 2014
Auto-enroll. Employers of 200 or more employees must auto-enroll all new employees into any available employer-sponsored health insurance plan. Employees may opt out if they have another source of coverage.	Not specified, but expected to be January 1, 2014
Community rating and limits on age rating: Applies to individual health and <u>fully insured</u> group policies. Max of 3:1, tobacco use 1.5:1, family composition and geographic regions to be defined by the states and experience rating would be prohibited. Wellness discounts are allowed for group plans under specific circumstances. Expect age-banded group and individual rates to see increases for younger ages. Possible decrease for older ages.	January 1, 2014
Discrimination Testing. Non-grandfathered plans are prohibited from discrimination in coverage or premium based on salary for insured plans.	Pending further guidance but expected to be enforced in 2014.



Reform Provision	Effective Date
<p>Exchanges must be created by each state to facilitate the sale of qualified benefit plans to individuals, including the federally administered multi-state plans and non-profit cooperative plans. In addition the states must create “SHOP Exchanges” to help small employers purchase such coverage. The state can either create one exchange to serve both the individual and group market or they can create a separate individual market exchange and group SHOP exchange.</p>	January 1, 2014
<p>HIPAA Bona Fide Wellness Program Rules are codified and improved and workplace wellness incentives are increased from 20% to 30% of premiums. Could go up to 50%.</p>	January 1, 2014
<p>HIPAA Bona Fide Wellness Program Rules are applied to the individual market in 2014-2017 under a 10-state pilot program with potential expansion to all states after 2017. It also calls for a new federal study on wellness program effectiveness and cost savings.</p>	January 1, 2014- 2017
<p>Individual Mandate. Requires all American citizens and legal residents to purchase qualified health insurance coverage. Exceptions are provided based on income, religion and some other criteria.</p>	Phased in beginning January 1, 2014
<p>No pre-existing condition exclusions. Coverage must be offered on a guarantee issue basis in all markets and be guaranteed renewable. Exclusions based on preexisting conditions and policy rescissions would be prohibited in all markets.</p>	January 1, 2014
<p>Pay or Play: Employer not offering coverage with more than 50 full-time employees must pay a fine of \$2000 per year for each full time employee they don't cover. Coverage must meet the essential benefits requirements in order to be considered compliant with the mandate. For the construction industry only, the responsibility requirement to provide affordable coverage applies to employers of more than 5 people with annual payrolls of more than \$250,000.</p>	January 1, 2014
<p>Pay or Play: An employer with more than 50 employees that does offer coverage but has at least one full-time employee receiving the premium assistance tax credit will pay the lesser of \$3,000 for each of those employees receiving a tax credit or \$2,000 for each of their full-time employees total.</p>	January 1, 2014
<p>Premium assistance tax credits on a sliding scale created for non-Medicaid eligible individuals with incomes up to 400% of FPL to buy coverage through the exchange</p>	January 1, 2014



Reform Provision	Effective Date
Qualified health plan (QHP) standards to include mandated benefits, cost-sharing requirements, out-of-pocket limits and a minimum actuarial value of 60%. Deductibles for non-grandfathered small group limited to \$2,000 individual, \$4,000 family. Allows catastrophic-only policies for those 30 and younger.	January 1, 2014
Small group coverage redefined as 1-100 employees. States may also elect to reduce this number to 50 for plan years prior to January 1, 2016.	January 1, 2014
State waiver. Allows states to apply for a waiver for up to 5 years of requirements relating to qualified health plans, exchanges, cost-sharing reductions, tax credits, the individual responsibility requirement, and shared responsibility for employers, provided that they create their own programs meeting specified standards.	January 1, 2014
Waiting periods of over 90 days not permitted.	January 1, 2014
2015	
CHIP program must be reauthorized.	
Coverage documentation must be provided to both covered individuals and the IRS by Health plans, both self-insured employer plans and public programs.	January 1, 2015 based on 2014 benefits
Exchange opens to large group. In 2017, States may choose to allow large groups (over 100) to purchase coverage through the exchanges.	January 1, 2017
Cadillac Tax. 40% excise tax on insurers of employer-sponsored health plans with aggregate values that exceed \$8,500 for individual coverage and \$23,000 for family coverage (indexed annually by CPI plus 1%). \$9,850/\$26,000 for retirees. Values include reimbursements from FSAs, HRAs and employer contributions to HSAs; also includes coverage for dental, vision, and other supplementary health insurance coverage.	January 1, 2018

As always, contact your SML Account team if you have any questions.

The information provided in this legislative update for our clients and colleagues is for general guidance only and is not intended to be, and does not constitute, tax or legal advice. We recommend that you consult with your tax and legal advisors for the interpretation or application of any laws for your particular circumstances and situation.