

Flex Plan News

Benefits News for Administrators

June 2009

New Health Care Reform Could Impact Employer Plans

As part of the health care debate in Washington and as Congress seeks to address health costs in light of the national debt and economic stimulus commitments, the employer tax exclusion could be in jeopardy more than ever before. Congress is studying ways to raise funds to finance its proposals, and employer (and employee) tax breaks for health and benefit plan coverage are potential targets. Measures under consideration include (1) elimination or reduction of the employer exclusion, (2) elimination or reduction in tax-favored status of FSAs, HRAs, and HSAs, (3) employer mandated coverage, and (4) other individual and public health insurance credits and options. This is a key topic for all employers to monitor over the summer. President Obama has set a goal having a signed bill by October, and a draft of the bill is expected by July for a period of comment and consideration.

It is vitally important for you to be heard on these issues, and time is of the essence. With any cut in employer tax savings, health costs for companies and their employees will rise, resulting in reduced coverage and potential loss of jobs. Please consider visiting or calling your representatives in Congress and expressing your concern about the employer tax exclusion. These representatives need to hear the potential negative impact of the cost-saving measures. If you need sample letters or suggesting talking points, feel free to contact us.

ProBenefits is an active member of the Employers Council on Flexible Compensation (“ECFC”), the largest and most effective pro-employer lobbying group. www.ECFC.org is an excellent site to track news and stay informed. We will also be posting monthly updates in our “News & Updates” section at www.ProBenefits.com. In addition to our work through ECFC, we have contacted our Senate and House representatives as well as members of congressional committees. We also plan to visit members of Congress and continue calls and letters. Please consider doing the same.

Flex Card Update: New IIAS Deadline For July 1st

As we have reported, changes in the law and card technology have made the Flex Card more efficient and effective than ever. The Inventory Information Approval System (“IIAS”) continues to include additional retail locations where eligible expenses (including prescriptions and over-the-counter items) can be auto-adjudicated. When a participant swipes the Flex Card at a participating merchant, the IIAS system automatically verifies eligible items purchased, and no further documentation is needed from the participant. As of 7/1/09, over 4,000 national, regional, and local merchants will be utilizing IIAS. For an updated IIAS list, visit: www.ProBenefits.com/Debit/IIAS.html. *Note re: substantiation:* cards used at medical offices may still require documentation.

In December, the IRS issued Notice 2008-104 extending the deadline to 6/30/09 for drug stores and pharmacies to implement IIAS. Although the vast majority of retail card swipes are already auto-adjudicating with IIAS, as of July 1st every retail Flex Card transaction should auto-adjudicate. Cards will not be accepted at merchants without IIAS. This is good news, because increased auto-adjudication translates to fewer paper claims for participants and reduced “pay and chase” for employers.

If you have any questions about the Flex Card, please contact us.

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New CHIP Special Enrollment Rights for Health Plans

The Children's Health Insurance Program Reauthorization Act of 2009 includes several important changes for group health plans, the first of which went into effect on April 1. The Act expands health coverage to low income and uninsured pregnant women and children, and in doing so creates two new special enrollment events for group health plans. Plans and insurers must allow eligible employees or dependents to enroll mid-year for group health insurance coverage if (1) they lose coverage under their state Medicaid or child health plan, or (2) they become eligible for premium assistance under the state Medicaid or child health plan. Coverage must be requested within 60 days after the qualifying event.

Employees should be notified of the new special enrollment rights. For ProBenefits 125 clients (POP and FSA plans), we are adding special enrollment language to routine SPD amendments after April 1. For anyone who would like a sample notice or plan amendment, contact us. Also, if you would like a more detailed summary of the Act, including the provisions that will go into effect in 2010, email Jason Cogdill at Jason@ProBenefits.com.

ERISA Update: Form 5500 Reporting Reminder

ERISA requirements include Form 5500 reporting for plans governed by ERISA. Since the deadline for Form 5500 reporting for 2008 calendar year plans is approaching (July 31), now is a good time for a quick refresher.

As a general rule, ERISA requires each separate plan to file a Form 5500 following each plan year (due 7 months after final day of plan year). All ERISA fully-insured, self-insured, and self-funded plans are required to file, with the exception of small unfunded plans (under 100 covered individuals). Premium-only flex plans are exempt from Form 5500 filing. Only Health FSA plans with more than 100 participants as of the first day of the plan year are required to file a Form 5500. [*For Health FSA plans administered by ProBenefits, assistance with 5500 preparation (when required) is included as part of your admin services*].

Typically, linked HRAs and linked Deductible Reimbursement Plans do not file separate Form 5500s, but are covered by the 5500 filing for the primary group health plan.

For more information on ERISA requirements that may be applicable to your company's benefit plan, contact your benefits advisor. For assistance from ProBenefits, including reference information regarding ERISA requirements, contact Jason Cogdill.

Your Question Answered: "We know that with a Section 125 plan in place we can allow employees to pre-tax medical or dental insurance premiums. What other benefits may be pre-taxed?"

Below is a list of benefits available for pre-tax treatment under a flex plan (either premium-only plan or FSA plan). Note that this is only a summary list, and each different benefit includes separate considerations.

Pre-tax benefit options: (1) group health insurance, (2) group dental insurance, (3) group vision insurance, (4) group term life insurance (for premiums on coverage up to a maximum of \$50,000; all additional should be paid post-tax); (5) group disability insurance (note: when premiums for disability insurance are paid pre-tax or fully paid by the employer, any subsequent benefit is taxable to the employee); (6) certain supplemental products, including AD&D coverage or Prepaid Vision Plans; (7) Medical/Dental/Vision FSA; (8) Dependent Care FSA; and (7) Health Savings Accounts (employee contributions).

Of course, the benefit to the flex plan is that when premiums or contributions for any benefit are run through a flex plan, those dollars are tax-free to the employee and also create FICA tax savings for employers on every dollar pre-taxed.

If you have any questions on any compliance topic, contact Jason Cogdill, ProBenefits attorney. Jason advises employers and plan advisors on a range of benefits topics and is available to you as a resource.