



**HEALTH CARE REFORM REGULATORY UPDATE
FOR THE
KANSAS CITY COMPENSATION AND BENEFITS ASSOCIATION**

This regulatory update will briefly focus on two aspects of health care reform: (1) IRS W-2 Form reporting of the cost of coverage, and (2) uniform standards for health plan summaries of benefits and coverage.

IRS W-2 Form Reporting of the Cost of Health Care Coverage

The IRS recently published guidance with respect to the W-2 Form reporting of the cost of health care coverage for informational (not taxable income) purposes to provide employees with useful and comparable information about their health plan coverage.

The good news is that this reporting is not required for any employer for 2011 (but is permitted). For 2012 this reporting is required for any employer who files 250 or more W-2 Forms for 2011. W-2 Forms for 2012 are the forms that will be sent to employees in January, 2013. Small employers (defined as employers that file fewer than 250 W-2 Forms for 2011) and certain other employers will not be required to report the cost of health care coverage on W-2 Forms until further IRS guidance is issued.

The amount reported may be calculated in one of the following three ways: (1) the COBRA cost for coverage (less the 2% administrative charge); (2) a modified COBRA cost by employers that subsidize part or all of COBRA coverage; or (3) the premiums paid for insured coverage. The amount reported must include both the portion paid by the employer and the portion paid by the employee. Employee contributions to an FSA or HSA, stand-alone dental and vision plan coverage and HIPAA excepted benefits (such as AD&D coverage or disability income insurance) are not required to be reported. Reporting is also not required if an employee terminates employment before the end of a calendar year and requests a W-2 Form before the end of that year.

The cost of health care coverage will be reported in box 12 of the W-2 Form with a Code DD. Additional information about this subject is available from IRS Frequently Asked Questions ("FAQ"), IRS Notice 2011-28 and a Haynes Benefits Alert at the following links:

IRS FAQ: <http://www.irs.gov/newsroom/article/0,,id=237894,00.html>

IRS Notice 2011-28: <http://www.irs.gov/pub/irs-drop/n-11-28.pdf>

Haynes Benefits Alert: <http://www.haynesbenefits.com/admin/uploads/W-2%20Reporting.pdf>

Uniform Standards for Health Plan Summaries of Benefits and Coverage

One of the Affordable Care Act requirements that plan sponsors will need to comply with before 2014 is uniform standards for health plan summaries of benefits and coverage. This is the new health plan benefit summary that must be (i) no more than four pages, (ii) in 12 point font, and (iii) written in a culturally and linguistically appropriate manner. The Act mandated that guidance with respect to these health plan benefit summaries would be provided by not later than March 23, 2011 and would be effective (presumably for plan years beginning on or after) March 23, 2012. The Act includes a detailed list of the required contents of these benefit summaries, including uniform definitions of standard insurance and medical terms, coverage descriptions of the essential health benefit coverage provided by the plan and cost sharing provisions. Additionally and very importantly, material modifications to plan terms or coverage that are described in these summaries will need to be provided *at least 60 days before* the effective date of the modification. These benefit summaries will need to be provided by both grandfathered and non-grandfathered plans and both self-insured and insured group health plans.

The American Benefits Council has informed us that proposed regulations with respect to uniform benefit summaries will be published very soon in the Federal Register. This means that there will be an opportunity for public comment (and, perhaps, even hearings).

Additional information about these new benefit summaries may be found at:

<http://www.haynesbenefits.com/admin/uploads/Uniform%20Standards%20for%20Health%20Plan%20Benefits%20and%20Coverage%20Summaries.pdf>

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