Six ways health care reform will affect your business

New insurance standards took effect in March

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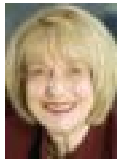

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The Patient Protection and Affordable Care Act (PPACA) became effective on March 23, 2010. PPACA establishes new federal private health insurance standards, many of which are not required to be implemented until 2014 but some of which affect employers now in six main ways: (1) actions taken now may forfeit "grandfathering" protection; (2) small businesses are eligible for a tax credit for a portion of health insurance premiums paid during 2010; (3) part of the claims a retiree plan pays for persons ages 55-64 may be eligible for reimbursement; (4) nursing mothers must be provided break time and a space for expressing milk; (5) collective bargaining agreements negotiated now may be impacted; and (6) there is new tax treatment of Medicare Part D subsidy payments.

Several of the Act's health plan mandates apply to the first plan year beginning after Sept. 23, 2010. Therefore, the only employers now affected are those with a plan year that begins Oct. 1, Nov. 1 or Dec. 1. While most existing health plans are "grandfathered" and do not need to meet most of the Act's requirements, employers should use caution in amending plans in order to prevent forfeiture of this protection. For the most part, plans still can add coverage for additional family members and enroll new employees and their families in a group health plan. On June 14, 2010, the Interim Final Rule relating to grandfathered plans was released that addresses the changes: that may be made to health insurance coverage or a group health plan without loss of "grandfather" status; the administrative steps to take to maintain such status; and describes how collectively bargained plans under PPACA interact with the grandfather provisions. The Preamble to the Rule also clarifies that retiree-only plans and plans that provide HIPAA excepted benefits are not subject to the reform requirements of PPACA.

Under PPACA, small employers that pay at least half of the cost of coverage of a single person in their health plan may be eligible to receive a tax credit for a portion of the non-elective contributions made toward premiums for qualified health plans it offers to its employees through an exchange (or would have made, if they opt out) beginning in 2014, but the credit is available on a reduced basis from 2010-2013 before exchanges are established.

If health care coverage is provided to persons who retire between ages 55 and 65, the government will reimburse the retiree health plan 80 percent of the portion paid for such early retiree claim that exceeds $15,000 but is not greater than $90,000.

The Act requires employers to allow nursing mothers breaks to express breast milk and to provide a location, other than a bathroom. Employers of fewer than 50 employees may have a hardship exemption from these requirements.

Additionally, until the regulations are written regarding how employee costs will be affected, employers should be cautious about entering into collective bargaining agreements that extend into 2014.

Finally, with respect to employers, the tax treatment of Medicare Part D subsidies will change beginning in 2013 for employers providing retiree prescription drug benefits, which may have an immediate effect on an employer's FAS 106 liability for providing post-retirement benefits. Employers affected by this change may wish to consult with their actuaries to determine whether their FAS 106 liabilities need to be increased to reflect this new tax treatment.

While the act brings few changes to employers until 2011 and beyond, steps should be taken to evaluate the act's immediate impact in order to comply with the required changes, take advantage of the incentives and exemptions, avoid the unknown, and to better plan for the future.

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