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What's New

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Health Care Reform for Employers and Advisors

This *What's New* section highlights the changes made in the most recent updates of *Health Care Reform for Employers and Advisors*. Updates reflect developments occurring through May 1, 2014. For developments after that date, please see the latest EBIA Weekly articles in Checkpoint's Newsstand.

Description of Changes

- **Section V- *Which Plans and Insurers Must Comply With the PHSA Mandates?***
 - *V.F-Excepted Benefits: Certain Health FSAs, Dental, Vision, and Others.* We cover proposed HHS regulations that follow up on previous FAQ guidance and that would allow fixed indemnity coverage sold in the individual market to be considered an excepted benefit if it meets certain conditions.
- **Section IX- *Lifetime, Annual, and Cost-Sharing Limits.***
 - *IX.B-Cost-Sharing Limits.* We indicate that legislation enacted in April 2014 included the repeal of the limitations on annual deductibles in the small group market. We have also updated for the revised out-of-pocket maximum limits for 2015. And there is a new example illustrating the potential effect of dividing the out-of-pocket maximum across multiple categories of benefits, as permitted under recent FAQ guidance.
- **Section XII- *Patient Protections, Preventive Health Services, and Clinical Trials.***
 - *XII.C-Coverage of Preventive Health Services.* In this subsection, we have updated for the Seventh Circuit's ruling to affirm a trial court's denial of a nonprofit religious university's request for a preliminary injunction from the contraceptive coverage mandate.
- **Section XIII- *Nondiscrimination in Plan Design.***
 - *XIII.D-Nondiscrimination in Health Care Providers.* We note the issuance of a request for information soliciting comments on the provider nondiscrimination provision-in response to FAQ

guidance issued in April 2013.

- **Section XIV- Insurance Mandates.**

- XIV.B-*Guaranteed-Availability and Guaranteed-Renewability Rules.* We cover FAQ guidance requiring insurers to offer coverage to legally married same-sex spouses under the same terms and conditions that apply to opposite-sex spouses in order to ensure guaranteed availability of coverage. In addition, we have revised our discussion to include changes to enrollment periods and minimum participation rules.

- **Section XX- Mechanisms to Allocate Risk.** In this Section, we note the issuance of the March 2014 final regulations, which set forth payment parameters and oversight provisions related to the risk adjustment, reinsurance, and risk corridors programs for 2015.

- **Section XXI- Exchanges, Qualified Health Plans (QHPs), and CO-OPs.**

- XXI.A-*Establishment of Exchanges.* We have updated the discussion on the Exchange initial, annual, and special enrollment periods in light of recent guidance, including a change in the annual open enrollment period for 2015. We also cover changes contained in the proposed rules applicable to navigators. In addition, there is brand-new discussion on the effect of COBRA coverage on eligibility for Exchange coverage and premium tax credits.

- XXI.D-*Small Business Health Options Program (SHOP).* We have updated this subsection for additional guidance relating to transition relief in 2014 for "direct enrollment" in the SHOP. We also cover proposed regulations that would allow states to request that their SHOP delay the employee choice option for another year and align the start dates for SHOP annual election periods with open enrollment periods in the individual market Exchanges for 2015. A new text box has been added to indicate the availability of a SHOP full-time equivalent employee calculator to assess whether an employer qualifies for the SHOP.

- Section XXII- Temporary High Risk Pool: PCIP Program.**

- XXII.A-*Introduction.* We note that an Exchange special enrollment period has been provided to eligible individuals remaining in the Pre-Existing Condition Insurance Plan (PCIP) program, beginning May 1, 2014, for enrollment in a QHP through the federally facilitated Exchange (state-based Exchanges adopted a similar special enrollment period). PCIP enrollees have until June 30, 2014 to select a plan, with coverage effective back to May 1.

- **Section XXVI- Small Business Health Care Tax Credit.**

- XXVI.H-*How Is the Credit Amount Determined?* We have updated for guidance allowing eligible small employers in the federally facilitated SHOP (and some state-based SHOPS) to use "direct enrollment" and still claim the small business health care tax credit for 2014. In addition, we note that CMS has made available an interactive small business health care tax credit estimator. This tool estimates the amount of the credit based on information entered.

- **Section XXIX- Shared Responsibility for Individuals (Individual Mandate).**

- XXIX.D-*Exemptions for Certain Individuals*. Coverage has been added for hardship relief granted to individuals who submitted an Exchange application during the open enrollment period for 2014 and who were determined eligible for CHIP or Medicaid.

- XXIX.F-*Premium Tax Credits for Lower-Income Individuals*. We have updated for IRS Notice 2014-23 providing accommodation for claiming the premium tax credits for victims of domestic abuse, and related HHS guidance on the availability of a special enrollment period in the Exchange for such individuals. We also indicate that coverage has been added in Section XXI on how the Exchange annual and special enrollment periods apply to those who elect COBRA coverage, as well as their eligibility for premium tax credits.

- **Section XXXVI- *Reporting, Fees, and Required Payments*.**

- XXXVI.C-*Information Reporting of Minimum Essential Coverage (Insurers and Employers That Self-Insure)*. We have updated the text box "Example of Reasonable Efforts to Obtain TINs" for a correction made to the final Code § 6055 regulations issued in March 2014.

- XXXVI.I-*Required Contributions Toward Reinsurance Payments*. In this subsection, we have updated for the annual reinsurance contribution rate for 2015 and for the revised rules relating to the calculation and collection of reinsurance contributions. In addition, we have revised our discussion for the relief in the final regulations for certain self-insured, self-administered plans from payment of reinsurance contributions.

- XXXVI.K-*Annual Fee on Health Insurance Providers*. We cover IRS Notice 2014-24, which provides a temporary safe harbor from the fee for covered entities that report premiums for expatriate plans. Also, we note the issuance of Form 8963: Report of Health Insurance Provider Information (and related instructions) used for reporting and fee calculation.