



**FRIDAY, JANUARY 21, 2011**

## **HEALTH CARE REFORM UPDATE**

### **RECENT EVENTS IN HEALTH CARE REFORM**

In this *Health Care Reform Update*, we offer a brief overview of recent developments as they relate to the health care reform legislation or the "Patient Protection and Affordable Care Act" (PPACA).

The United States Department of Labor (DOL), Department of Health and Human Services (HHS) and the Internal Revenue Service (IRS)-otherwise known as the "Departments"-has recently issued guidance in the form of Frequently Asked Questions on several topics, including updates to the 60-day advance notices of material plan changes and clarification regarding automatic enrollment. For more on these and other updates, please review the information below and visit <http://origin.www.gpo.gov/fdsys/pkg/FR-2010-12-23/pdf/2010-32143.pdf>.

We hope you find this information helpful and invite you to review past issues of our *Health Care Reform Update* at <http://www.trion.com/healthreform>. Throughout 2011, we will continue to issue these updates and your Trion Account Management teams will continue supporting you in navigating, understanding, and complying with all PPACA developments. In the meantime, we invite you to share your questions and comments with us by emailing [health.reform@trion.com](mailto:health.reform@trion.com) or calling 610.945.1198.

#### **60-Day Advance Notices of Material Plan Changes**

The requirement that employers provide 60-day prior notice of any material changes to information described in the summary of benefits and coverage explanation will not go into effect until compliance with the new obligation to provide uniform summary plan descriptions (SPD) is complete. PPACA will not require the Departments to issue the uniform SPD rules until March 23, 2011; it will then require plans to comply no later than March 23, 2012. In the meantime, in the absence of the new uniform SPD, plans are not required to comply with the 60-day advance notice requirement for plan changes.

### **Automatic-Enrollment**

The health plan auto-enrollment requirement for employers with more than 200 full-time employees will not go into effect until the DOL and the IRS determine the criteria for being a full-time employee. Until this happens (the DOL is targeting 2014), employers will not have to comply with automatic enrollment requirements.

### **Grandfathered Plans**

Grandfathered plans with fixed-amount cost-sharing other than copays (e.g. deductibles, out-of-pocket limits) that is based on a percentage of the employee's compensation will retain grandfather status-even if an employee's fixed-amount cost-sharing increases along with his or her compensation. This requires the "percentage-of-compensation formula" used to calculate the cost-sharing remains the same as it was on March 23, 2010.

### **Dependent Coverage of Children to Age 26**

A plan may make distinctions based upon age that apply to all who are covered under the plan. According to new guidance, a plan does not violate PPACA when it imposes copayments on those who are age 19 and older, including employees, spouses and adult children. However, a plan may waive copayments for children under age 19.

### **Preventive Care (Non-Grandfathered Plans)**

Non-grandfathered plans can now use copays to encourage participants to use health care services more cost effectively. This type of "value-based" insurance design is allowed under the preventive services rule, where government guidelines for recommended services do not specify the frequency, method, treatment, or setting for a particular service. The Departments also issued a Request for Information (RFI) about the strategies plans use to steer employees toward high-value settings; that includes how the "high-value" is determined and the consumer protections available to ensure employees have adequate access to quality care. View the full RFI: <http://webapps.dol.gov/FederalRegister/PdfDisplay.aspx?DocId=24556>.

### **Wellness Program Nondiscrimination Requirements**

The Health Insurance Portability and Accountability Act's (HIPAA) non-discrimination rules on standard-based wellness programs only apply to programs inside a group health plan that require satisfaction of a health factor. Programs that are operated as "an employment policy separate from" the group health plan are not subject to the HIPAA nondiscrimination rules. Examples include subsidizing healthier food choices in an employee cafeteria, paying for gym memberships, or banning smoking in employer facilities. In addition, only wellness programs that provide rewards based on a health factor are required to comply with the five-part test in the HIPAA non-discrimination rules for health factor-based programs.

Look for more guidance from the Departments in 2011 on consumer protections that may be needed to prevent standard-based wellness programs from being used as grounds for health status discrimination.

### About Trion Health Care Reform Update

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