

## EMPLOYEE BENEFITS ALERT

### PPACA PROVISIONS IMPACTING EMPLOYEE BENEFIT PLANS OR PAYROLL IN 2013

Now that the Supreme Court has upheld the Patient Protection and Affordable Care Act (PPACA), employers should prepare for all PPACA provisions that will become effective in 2013 and that will impact employee benefit plans or payroll. Attached is a summary of those upcoming PPACA provisions.

Date	Issue	Description
First open enrollment period or first plan year beginning on or after September 23, 2012	Summary of benefits and coverage	<p>Group health plan administrator or insurer must distribute a uniform summary of benefits and coverage explanation prior to enrollment or re-enrollment, and at other specified times. (Akin to a “mini SPD”).</p> <p>Provision applies to grandfathered plans.</p>
January 31, 2013 (based upon 2012 taxable year)	W-2 reporting: cost of employer sponsored health coverage	<p>Requires employers to report on W-2s the “aggregate cost” of “applicable employer-sponsored” health benefits. [Code § 6051(a)]</p> <p>PPACA originally provided that this requirement would be effective beginning with the 2011 tax year, but later made compliance in 2011 optional. The W-2 reporting requirement is mandatory starting with the 2012 tax year. As a result, the value must be reported on the Form W-2 issued by January 31, 2013.</p> <p>Provision applies to grandfathered plans.</p>
Taxable years beginning after January 1, 2013	Medicare Payroll Tax (FICA tax) Increases	<p>Increases Medicare payroll tax by .9% (no indexing of inflation, for a total of 2.35%) on wages in excess of:</p> <ul style="list-style-type: none"> <li>○ \$200,000 for single filers;</li> <li>○ \$250,000 for married filing jointly;</li> <li>○ Employers must withhold on wages paid to any employee in excess of \$200,000, regardless of the employee’s filing status or spouse’s income.</li> </ul> <p>An employer is required to collect the employee’s share. However, the law does not increase the employer’s share of FICA Medicare tax. Employers should have systems in place to collect tax starting January 1, 2013.</p>
January 1, 2013	Loss of Medicare Part D Subsidy Deduction	<p>The deduction for the portion of health care expenses that are reimbursed to the employer through the Medicare Part D subsidy program is eliminated.</p> <p>Provision applies to grandfathered plans.</p>

Date	Issue	Description
Taxable years on or after January 1, 2013	Health FSA \$2,500 cap [Code § 125(i)]	<p>A \$2,500 annual limit will be imposed on health FSA deferrals; currently there is no such limit. Amount is indexed for cost-of-living increases.</p> <p>Provision applies to grandfathered plans.</p>
January 1, 2013 (employers must certify compliance by December 31, 2013)	HIPAA electronic transactions and operating rules [SSA § 1173(g)] relating to eligibility for a health plan and health care claim status (i.e. plan communications with providers)	<p>Staggered from January 2013 to January 2016, HHS must adopt uniform standards and operating rules for the electronic transactions that occur between providers and health plans that are governed under HIPAA. This would include, for example, benefit eligibility verification, and prior authorization and electronic fund transfer payments.</p> <p>Health plans will have to certify compliance or face financial penalties.</p> <p>For 2013, the following areas will be covered by recently issued HHS rules:</p> <ul style="list-style-type: none"> <li>○ Eligibility for a health plan;</li> <li>○ Health care claim status;</li> <li>○ Electronic fund transfer.</li> </ul> <p>These requirements are effective January 1, 2013, but require employers to certify by December 31, 2013.</p> <p>Provision applies to grandfathered plans.</p>
March 1, 2013	Exchange notice [FLSA § 18B]	<p>Employers must provide notice to existing employees and all new employees:</p> <ul style="list-style-type: none"> <li>○ of the upcoming existence of state insurance exchanges, which are to be established by all the states in 2014;</li> <li>○ that they may be eligible for a premium tax credit (under Code section 36B) or a cost-sharing reduction (under PPACA section 1402) through the exchange if the employer plan's share of the total cost of benefits under the plan is less than 60%; and</li> <li>○ that if an employee purchases coverage through the exchange, they may lose any employer contribution toward the cost of coverage, and also that all or a portion of any employer contributions to employer-provided coverage may be excludable for federal income tax purposes.</li> </ul> <p>HHS regulations set forth general standards. In addition, the employer must ensure that service providers also comply with the transaction and certification requirements. Penalties are imposed for non-compliance with this requirement.</p> <p>Provision applies to grandfathered plans.</p>

Date	Issue	Description
July 31, 2013	Annual fees applicable to self-insured benefit plans (as well as certain insurers). Also known as “PCOR fees” or “CER fees.”	<p>Certain health insurance issuers and self-funded health plans will be required to pay an annual fee of \$2.00 (\$1.00 during first year the provision is applicable and starting in 2014, indexed for inflation starting) times the average number of covered lives under the health insurance policy or self-insured health plan.</p> <p>Fee must be paid once per year, and reported on IRS Form 720 (quarterly return).</p> <p>These fees will pay to fund the Patient-Centered Outcomes Research Institute, a non-profit created through the PPACA, to further comparative effectiveness.</p> <p>Provision is effective for plan years ending after September 30, 2012, but scheduled to end for plan years ending after September 30, 2019.</p> <p>Fee must be paid on July 31 following the plan year, so July 31, 2013 for the 2012 plan year.</p>

*The Employee Benefits Alert is intended to keep readers current on matters affecting employee benefits and is not intended to be legal advice. If you have any questions about this alert or any other issues relating to employee benefits, please contact **Kathryn English** at 412.566.1226, **Elizabeth Goldberg** at 412.566.6016, **Michael Herzog** at 412.566.6130, **Malgorzata (Gosia) Kosturek** at 412.566.6180, **Sandra Mihok** at 412.566.1903, **Brandon Richards** at 412.566.1263, or **Paul Yenerall** at 412.566.1944.*

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