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Legislative Brief – Health Care Reform - W-2 Reporting

The Patient Protection and Affordable Care Act (PPACA) was enacted on March 23, 2010 and amended by the Health Care and Education Reconciliation Act of 2010 on March 30, 2010. Health care reform brings a number of changes to employers and plan sponsors. One such change is the requirement to report the aggregate cost of employer-sponsored health coverage on an employee's Form W-2, effective for **tax years beginning after December 31, 2010**.

Please note that although the information must be disclosed, this requirement does not mean that the cost of the coverage will be taxable to the employee.

This RCM&D Legislative Brief describes the Form W-2 reporting requirement. Please read below for more information.

Form W-2 Reporting Requirement

Section 9002(a) of PPACA provides that, beginning with the 2011 tax year, employers must disclose the aggregate cost of applicable employer-sponsored coverage provided to employees on the employee's Form W-2. Section 9002(a) specifically adds this information to the list of other items that must be included on the Form W-2. These items include information such as the individual's name, social security number, wages, tax deducted, the total amount incurred for dependent care assistance under a dependent care assistance program and the amount contributed to any health savings account (HSA) by the employee or his or her spouse.

The inclusion of this information on the Form W-2 does not change the requirements with respect to taxable income, or the tax exclusion for amounts paid for medical care or coverage. Those items are addressed in another portion of the tax law that is not affected by this change. However, this information may be used to determine whether a plan is a "Cadillac plan" for purposes of the excise tax on high-cost health plans that will take effect in 2018.

Coverage That Must Be Reported

Under this new requirement, the information that must be reported relates to "applicable employer-sponsored coverage." Applicable employer-sponsored coverage is, with respect to any employee, coverage under any group health plan made available to the employee by the employer which is excludable from the employee's gross income under Code sect. 106.

For purposes of this reporting requirement, it does not matter whether the employer or the employee pays for the coverage – it is the aggregate cost of the coverage that must be reported. The aggregate cost of the coverage is determined using rules similar to those used for determining the applicable premiums for purposes of COBRA continuation coverage.

Some types of coverage do not need to be reported on the Form W-2 under this requirement. These are:

- Long-term care, accident or disability income insurance;
- Coverage for a specific disease or illness;
- Hospital indemnity or other fixed indemnity insurance; and
- Salary reduction contributions to a health flexible spending arrangement (FSA) under a cafeteria plan.

This requirement also does not apply to amounts contributed to an Archer medical savings account (Archer MSA) by the employee (or his or her spouse) or amounts contributed to a health savings account (HSA) by the employee (or his or her spouse). Those amounts are already required to be separately accounted for on the Form W-2.

Compliance Steps for Employers

Although this requirement is not applicable until the 2011 tax year, employers should ensure that they (or their payroll provider) are prepared to gather this information in advance of having to complete the Forms W-2 for 2011. In doing so, they should make sure they can identify the applicable employer-sponsored coverage that was provided to each employee and be prepared to calculate the aggregate cost of that coverage. Employers may also have to address questions from employees regarding whether their health benefits are taxable under this new requirement.

RCM&D will continue to update you if additional information becomes available with respect to this requirement.

This RCM&D Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

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