

Healthcare Reform Bulletin

What's Gone Away and What's Coming in 2012?

December 15, 2011



The tide of regulations interpreting the 2010 Patient Protection and Affordable Care Act (PPACA) began to ebb in 2011, and portions of the law have even been repealed or put on hold. However, health plan sponsors will still face new compliance burdens in 2012.

Legal Challenges to Individual Mandate

Foremost on the mind of many plan sponsors is the constitutionality of the PPACA's "individual mandate." Starting in 2014, this would require that virtually all U. S. citizens either have health insurance or pay a monetary penalty. Several lower federal courts have examined this issue during the past year. On November 14, the United States Supreme Court agreed to review three lower court decisions addressing this and other PPACA-related questions. Those arguments will likely take place in March, with a decision possible by the end of the Court's term in June.

Repeal of Form 1099 Reporting Requirement

Congress and the President eventually agreed on legislation repealing the PPACA's expanded Form 1099 reporting requirements.

Repeal of Free-Choice Voucher Requirement

Congress and the President agreed to repeal the PPACA provision that would have required employers to issue "free-choice vouchers."

Shelving of CLASS Act

In October, the Obama Administration tabled the Community Living Assistance Services and Supports program ("CLASS Act"), after determining that this long-term care insurance program is not financially sustainable. This national, government-run program was designed to allow certain individuals the option of buying insurance for benefits that would largely supplement, but not replace existing public programs or insurance.

Uniform Summary of Benefits and Coverage

The PPACA will require that each employer health plan provide a four-page summary of the plan's benefits to all individuals who are eligible for coverage. This requirement was scheduled to take effect on March 23, 2012. However, the agencies charged with implementing the PPACA proposed regulations on this topic, along with templates of proposed formats to furnish this new "summary of benefits and coverage" have yet to issue final regulations. Therefore, plans and insurers need not issue

SBCs until those final regulations are issued and have "sufficient time to comply," likely in 2013.

Women's Preventive Services

The PPACA also requires that group health plans (other than plans that are "grandfathered") cover a list of "preventive health services" on a first-dollar basis, and with no cost-sharing requirement. Generally speaking, the new services must be covered during plan years beginning on or after August 1, 2012. Thus, although calendar-year plans need not cover these services until January 1, 2013, the requirement will take effect during 2012 for plans with plan years beginning during the last five months of the calendar year.

Form W-2 Reporting of Health Coverage

As a result of the PPACA, employees' Forms W-2 must provide useful and comparable consumer information on the cost of their employer-sponsored health coverage. On March 29, 2011, the IRS issued Notice 2011-28, providing interim guidance on this new reporting requirement. This W-2 reporting is optional for 2011, but required for the 2012 Forms W-2 (to be given to employees in January of 2013). To prepare for this new requirement, plan sponsors should make sure they have systems in place to track this additional information. Sponsors may also want to prepare a special communication to be provided with their employees' 2012 Forms W-2.

Nondiscrimination Requirements for Insured Health Plans

The Internal Revenue Service announced (in Notice 2011-1) that insured group health plans will not be required to comply with the PPACA's income-based nondiscrimination requirements until sometime after the IRS issues regulatory guidance on those requirements. That guidance has yet to be issued. Therefore, sponsors of fully insured plans continue to enjoy a temporary reprieve from these nondiscrimination requirements – and the onerous penalties associated with noncompliance.

Providing consumers with access to reliable and trustworthy information will be vital to educated and informed decision making. Call us at 1-800-678-1700 to talk to your benefit advisor at Cornerstone Group for more information on how to communicate this important information to your employees.