New Year Updates

Happy new year!! Regulators continue to keep the guidance coming and the new Congress is already introducing potential changes, so below we’ll share with you some updates to help keep things straight.

- **SBC Revisions for This Fall**
- **List of Non-English Counties Updated for 2015**
- **Play or Pay Penalties Indexed**
- **Personal Tax Questions from Your Employees**
- **Congressional Activity**

**SBC Revisions for This Fall**

The IRS, DOL, and HHS have issued several FAQs since providing the final rule on February 14, 2012 governing Summaries of Benefits and Coverage (SBCs) and the uniform glossary. Proposed regulations were recently issued to update the final rule and to introduce additional changes that, if implemented, would be effective **renewals on/after September 1, 2015**. The updated SBC and other materials are available now, and a fact sheet summarizes the changes as follows:

- Several SBC content requirements will be eliminated to shorten the SBC from its current 4 double-sided (8 total) pages to 2½ double-sided (5 total) pages. This will allow additional room for explanations that in the past have taken the SBC beyond the statutory limit of 4 pages (such as explaining the impact of an HRA or wellness incentive to how benefits are paid).
- The “Important Questions” table will eliminate:
  - Annual limits
  - What’s not covered (there’s still a section for this later)
  - The special box on page 2 defining key terms (shown top right, taking up a third of a page) as these will be defined in the uniform glossary
- The description of continuation rights (shown right, taking up half a page) will be significantly shortened to a 4-line paragraph
• Disclosure of whether the plan provides minimum essential coverage and minimum value will be shorter and will clarify how this information pertains to the individual mandate and public Marketplace subsidy availability

• In addition to the two current coverage examples of “having a baby (normal delivery)” and “managing diabetes type 2 (for a well-controlled condition),” a third example would be added for a simple foot fracture with emergency room visit, and underlying pricing data would be updated for all coverage examples. (Note the statute allows for up to 6 coverage examples.)

• Curiously, the entire eighth page discussing the coverage examples (shown right) will be eliminated

• The uniform glossary will be updated to add definitions for:
  o Claim
  o Cost Sharing
  o Cost-Sharing Reductions
  o Individual Responsibility Requirement
  o Marketplace
  o Minimum Essential Coverage
  o MEC Exemption
  o Minimum Value Standard
  o Formulary
  o Specialty Drug
  o Referral

• A host of other FAQ guidance is incorporated into the regulation, such as the assessment of penalties for failing to comply

Regulators will accept public comment on the proposed regulation and materials until March 2, 2015.

List of Non-English Counties Updated for 2015

Regulators have issued their annual update to the list of non-English counties as of December 2014. The introduction highlights the addition of Sullivan County, Missouri with 10% of their residents literate only in Spanish. However, there are other notable changes not mentioned in the introduction, such as Denver County, Colorado being removed from the list.
Employees residing in these counties are to be provided a statement on their SBC and certain other materials relating to claims and appeals in the alternative language specified for that county so the recipient is aware they may ask for additional assistance in that language. Then the insurance company or TPA will need to be able to provide assistance in that language.

**Play or Pay Penalties Indexed**

IRC §4980H(c)(5) specifies that “in the case of any calendar year after 2014,” the play or pay penalties assessed to applicable large employers “shall be increased by…the premium adjustment percentage…rounded to the next lowest multiple of $10.” Each year the federal government will publish the premium adjustment percentage to be used for this purpose.

For 2015, the government issued a final percentage of 4.213431463, which indexes the penalties for 2015 as follows:

- Subsection (a) or “pay” penalty: $2,000 indexed 4.21% ≈ $2,084.27, rounded down to $2,080
- Subsection (b) or “pay” penalty: $3,000 indexed 4.21% ≈ $3,126.40, rounded down to $3,120

The government has also proposed for 2016 a percentage of 8.316047520, which if finalized will index the penalties for 2016 to $2,160 and $3,240.

**Personal Tax Questions from Your Employees**

Several employers have had employees inquire whether they will receive a Form 1095-C as their accountant has indicated it will be needed for personal tax filings. Employers and insurers are exempt from providing Forms 1095-B and 1095-C this January. Only the public Marketplace must provide a Form 1095-A to anyone enrolled in the public Marketplace.

**Congressional Activity**

The new Congress has taken prompt action to introduce bills that would alter the health care reform law. It is important to remember the employer mandate went into effect January 1, 2015 (with some transition relief available for select employers), so complying with the law as it exists is crucial. When Congress and the President do make a permanent change affecting employers, IMA will provide a communication as quickly as possible with pertinent details.

Below is a sampling of bills that have been introduced but are not law as of the date of this bulletin:

- Tuesday, January 6, 2015:
  - [H.R. 22](#) (the *Hire More Heroes Act*) was introduced to exclude veterans with Department of Defense coverage (including TRICARE or VA coverage) when determining the
employer’s size for Employer Shared Responsibility and when identifying FT employees which must be offered coverage to avoid “play or pay” penalties. This bill passed the House unanimously 412-0, so it’s been referred to the Senate.

- **H.R. 30** (the *Save American Workers Act*) and **S. 30** (the *Forty Hours is Full Time Act*) were introduced to change the health care reform law’s definition of full-time from 30 hours per week to 40. The House passed their bill 252-172, with 12 Democrats voting in favor despite the President’s veto threat. The Senate only has 2 Democrats supporting the measure, far short of the 6 needed for cloture. Nevertheless, it has been scheduled for a Senate Committee hearing on Thu Jan 22.
  - Please note it would take 290 House votes and 67 Senate votes to override the President’s veto. This bill has a serious uphill climb, so we caution employers to continue complying with the law’s current FT definition of 30 hrs/wk.

- **H.R. 33** (the *Protecting Volunteer Firefighters and Emergency Responders Act*) was introduced to exclude volunteer firefighters and volunteer emergency responders from Employer Shared Responsibility counts and coverage requirements. This bill passed the House unanimously 401-0, so it’s been referred to the Senate.
  - Please note that the final rule on Employer Shared Responsibility has already provided an exemption for nominally compensated or reimbursed “bona fide volunteers” of governmental or non-profit employers, so this bill would seek to make that guidance statutorily permanent.

- **Tuesday, January 13, 2015:**
  - **S. 149** and **H.R.160** were introduced to repeal the 2.3% Medical Device Tax. With the bipartisan Senate bill having 5 Democrat and 5 Republican cosponsors, it may stand a decent chance. If it becomes law, it will repeal the tax retro to its Dec 31, 2012 inception.
  - **S. 157** was introduced to repeal the 2.3% Medical Device Tax and both the Individual and Employer Shared Responsibility mandates.
  - **S. 158** was introduced to allow “grandmothered” plans to be renewed until at least 2018.

IMA will continue to monitor regulator guidance and offer timely, meaningful, and practical information.

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