



# Client Bulletin

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## Health Care Reform



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### Immediate Changes to Existing Plans

As reported through email flashes to you, the Patient Protection and Affordable Care Act (as amended by the Health Care and Education Reconciliation Act) was enacted on March 23, 2010, with the first provisions going into effect six months from the enactment date. We are expecting regulations which will provide implementation guidance to be published shortly.

Although most of the major provisions of health reform legislation do not go into effect for several years, some changes take effect on the first plan year starting after September 23, 2010 (January 1, 2011 for calendar year plans). At the plan anniversary date, existing group medical plans must:

- Remove any lifetime limits;
- Remove certain annual limits;
- Eliminate any pre-existing condition limitations on children under age 19; and
- Extend coverage to children up to age 26 (see page 2).

These changes apply to all employer medical plans regardless of size, including self-insured and HMO contracts. Keller is working with the carriers to ensure that your plans will be in compliance.

Additionally, January 1, 2011 is the implementation date for:

- The government's voluntary long-term care program (CLASS Act) that may be offered by employers;
- Employer reporting of employee health care costs on the 2011 Form W-2; and
- Removal of OTC medications as eligible for reimbursement from an FSA, HSA or HRA (see page 3).

Keller will provide detailed guidance on all health care reform compliance once the regulations are published.

### Health Reform Employee Communications

Keller can provide you with a sample memo including a timeline of effective dates that you can send to your employees explaining the impact of health reform on your group health plans. Contact your Keller consultant for more information.



## Extension of Coverage for Children up to Age 26

Effective the first plan year after September 23, 2010 (January 1, 2011 for calendar year plans), your employees will be able to enroll their children who are under the age of 26, as long as that child does not have access to other employer-sponsored health coverage (e.g. through child's own employer or child's spouse's employer). These children may or may not be students, may or may not reside with the employee, and may or may not be married. If the child is married, the child's spouse or children would not be eligible.

Most major carriers, including Aetna, Anthem, CareFirst, CIGNA, Kaiser, Unicare and United HealthCare, have indicated that as of June 1, 2010, they are going to allow certain children who would have otherwise lost coverage due to graduating this spring to remain enrolled on the medical plans. **This early implementation only applies to children currently enrolled on the plan and may not include children on COBRA.** The carriers will not include reinstatement of dependents that previously aged out of your plan until the required effective date for implementation.

To date, Guardian has indicated that it will not implement the age extension until the date required under the reform. A list of carriers implementing the age extension early is provided at:

[www.healthreform.gov/forums/blog/earlyenrollment\\_1.html](http://www.healthreform.gov/forums/blog/earlyenrollment_1.html)

If your plan is self-insured, you should discuss the implementation date of the new child age limit with your Keller consultant.

Extension of coverage to these children generally applies to the medical plan only. Dental and vision plans will need to be considered separately. Please contact your Keller consultant for more information.

### Health Care Reform Resources

[www.healthreform.gov](http://www.healthreform.gov)

[www.whitehouse.gov/healthreform](http://www.whitehouse.gov/healthreform)

[docs.house.gov/energycommerce/TIMELINE.pdf](http://docs.house.gov/energycommerce/TIMELINE.pdf)

[www.kellerbenefit.com/resources/legislative.html](http://www.kellerbenefit.com/resources/legislative.html)

### Tax-Free Coverage for Children to Age 26

The cost of health insurance, FSA reimbursements and HRA benefits are normally only excluded from an employee's taxable income when provided for the employee, legal spouse and IRS qualified dependent children. Due to the new eligibility age under reform, the IRS issued a news release that allows for tax-free medical coverage for children through the end of the calendar year in which the child turns age 26, even if they do not meet the IRS definition of dependent.

The tax guidance does not provide plan eligibility for coverage past age 26, but is intended to make sure the coverage is tax-free if a child is still covered for a period of time under your group plan contract after his or her 26th birthday, such as through the end of the month.

#### Health Care FSA Plan Amendments

Please note that cafeteria plans use the IRS definition of dependent for a child's medical expenses to be eligible for reimbursement under a health care FSA. If you would like for your employees to be able to claim medical expenses under your health care FSA for their children who are under age 27 and not IRS dependents, your plan documentation needs to be amended accordingly.

**Over-the-Counter Medications No Longer Eligible under Health Care FSA, HSA or HRA**

Under health care reform, over-the-counter (OTC) medications without a prescription will no longer be reimbursable under health care FSAs, HSAs or HRAs. Non-eligible OTC medications include internal and topical drugs and medicines, such as acid controllers, allergy, sinus, cough, cold, flu, and pain relief medicines. Employees can still claim expenses for other medically-related OTC items, such as contact lens solution, diabetes testing supplies, canes, splints, smoking deterrents, orthopedic inserts, etc.



This change goes into effect on January 1, 2011 for all plans, regardless of your plan year. Employers should notify their employees of this change at their next open enrollment.

For employee planning purposes, employers who have an FSA 2 ½ month extension period or whose current plan year will end after January 1, 2011 should notify their employees immediately that they will no longer be able to claim OTC medications without a prescription after December 31, 2010.

**Small Business Tax Credit**

Health care reform created a new tax credit for certain employers with less than 25 full-time equivalent employees, average annual wages of less than \$50,000, and who contribute more than 50% towards the cost of single coverage. Starting in 2010, the tax credit is equal to up to 35% of average premiums in your state. Tax-exempt employers are eligible for a tax credit of up to 25%. Please contact your Keller consultant for more information or refer to:

- IRS “3 Simple Steps to Qualify”: [www.irs.gov/pub/irs-utl/3\\_simple\\_steps.pdf](http://www.irs.gov/pub/irs-utl/3_simple_steps.pdf)
- IRS Tax Credit Overview: [www.irs.gov/newsroom/article/0,,id=220809,00.html?portlet=6](http://www.irs.gov/newsroom/article/0,,id=220809,00.html?portlet=6)
- IRS Tax Credit FAQs: [www.irs.gov/newsroom/article/0,,id=220839,00.html](http://www.irs.gov/newsroom/article/0,,id=220839,00.html)
- IRS Rev. Ruling 2010-13 (Average State Premiums): [www.irs.gov/pub/irs-drop/rr-10-13.pdf](http://www.irs.gov/pub/irs-drop/rr-10-13.pdf)



**Form 5500 Reminder**

**Don't Forget to Register as Filing Signer**

If your health and welfare plans are subject to Form 5500 reporting (100+ participants at the beginning of the plan year), someone at your firm must be registered as Filing Signer on the Department of Labor's EFAST2 website so that your 2009 reports can be filed electronically ([www.efast.dol.gov/welcome.html](http://www.efast.dol.gov/welcome.html)). Keller will continue to prepare the Form 5500s and notify you when the return is ready for review and filing. Please refer to the First Quarter 2010 Keller Client Bulletin for registration details or contact your Keller consultant with any questions.

**Recent Keller Legislative Compliance Seminar—Materials Available**

In March and April, we held seminars to review employer compliance responsibilities, with an overview of the new health care reform legislation. If you were unable to attend, please contact your Keller consultant or Lynne Pettey ([LPettey@kellerbenefit.com](mailto:LPettey@kellerbenefit.com)) for a copy and review of the presentation.