



Client Bulletin



Health Care Reform Update

There have been significant changes to health care reform this month including the repeal of two provisions, updates to state taxation of health benefits, and delayed implementation of some appeals provisions. We have also provided a list of upcoming regulatory guidance we expect to be released in the near future. As always, we will continue to keep you updated with all developments in the implementation of health care reform. If you have any questions, please contact your Keller consultant.

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Repeal of Free Choice Vouchers

The federal budget compromise reached to avert a government shutdown contains a repeal of the Free Choice Voucher program. The voucher program was due to take effect in 2014 and would have allowed certain lower income workers to opt out of employer-provided health coverage and use the employer's contribution towards the purchase of health coverage through an Exchange.

Repeal of 1099 Reporting

Congress has voted to repeal an unpopular provision of the health care reform law – expanded Form 1099 reporting requirement for businesses. Scheduled to take effect in 2012, this provision would have expanded Form 1099-MISC reporting of payments to corporations, significantly increasing the reporting burden for most corporations and small employers.

Early Retiree Reinsurance Program Application Deadline

The Early Retiree Reinsurance Program (ERRP) created by the health care reform law provides reimbursements to plans for high cost claims incurred by early retirees under age 65. The program began accepting applications from health plans last summer and as of April 1, 2011, has already paid out \$1.8 billion in reimbursements to health plans. Due to the high utilization of this program and limited funding of \$5 billion, the ERRP will stop accepting new applications after May 5, 2011. Plans that have already been accepted into the program will continue to be able to seek reimbursements from the ERRP until either the plan's funding is exhausted or January 1, 2014, whichever is earlier.

ACTION ITEMS

- For calendar year welfare plans with 100+ participants, the 2010 Form 5500 is due by July 31st.
- Apply for Early Retiree Reinsurance Program by May 5th, if applicable.

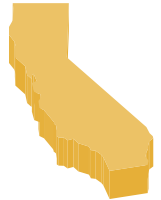


Health Care Reform Update (continued)

State Tax Code Updates for Adult Child Health Coverage

IRS Notice 2010-38 allows for tax-free health insurance coverage for an employee's children up to age 26, even if they are not tax-dependents of the employee. However, conflict has arisen since several states do not automatically follow federal taxation, as noted in our [December 22, 2010 Client Bulletin](#).

On April 7, 2011, California amended its state tax code to allow tax-free employer-provided health coverage for adult children to age 26. This new state tax rule is effective retroactively to include the 2010 calendar year. Employers who taxed health coverage for adult children of California residents in 2010 may need to file amended Form W-2s and/or state wage and tax reports.



In addition, Minnesota has also amended its 2010 state tax code to allow tax-free employer provided health coverage to adult children up to age 26. However, Minnesota's tax code change does NOT apply to 2011 or future tax years. Additional legislation will be needed to apply these changes going forward.



Additional state legislatures have also followed suit including Virginia (see [3/23/2011 Keller Client Bulletin](#) for details), South Carolina, Arkansas, Kentucky, Maine, and Oregon, to name a few. If you have employees who reside in any of these states, contact your payroll vendor, accountant, or tax advisor for further guidance on these issues.

Notes from the DOL Automatic Enrollment Public Forum

On 4/8/2011, our legislative compliance team participated in a public forum at the Department of Labor seeking input on the new automatic enrollment requirement for large employers (200+ employees), scheduled to take effect sometime before 2014. The regulators use public input to help write regulations. Members of the public included representatives from benefit consulting firms, law firms, employers, and multiemployer plans. Topics of discussion included defining full-time employees, default benefit option and enrollment tier (e.g., lowest cost plan or richest plan, single or dependent coverage), employee notice of the automatic enrollment, ability for employees to opt-out, and processes for handling any refunds of employee contributions. The public comments indicated flexibility will be essential since employers have different workforces, cultures, and benefit plans and one rigid process would not fit well. There was significant discussion about how to design the opt-out period such that it provides sufficient time for employees to opt-out without creating a significant administrative burden for employers with constant enrollments, disenrollments and refunds. The regulators are going to take this feedback and continue working on the regulations. We do not have details on a specific time frame for when these regulations will be released other than previously issued statements indicating implementation to occur "by 2014."





Health Care Reform Update (continued)

Delayed Implementation of Certain Claims & External Appeals Processes

One of the early provisions of health care reform was an expansion of the health plan internal claims appeals process and the external review process for non-grandfathered health plans. There are multiple aspects to these provisions including faster processing of urgent claims appeals, distribution of culturally and linguistically appropriate materials, and expansion of external review processes to self-insured plans. The initial regulations released in August 2010 provide delayed enforcement of certain provisions. Additional guidance recently released in [TR 2011-01](#) provides further delayed implementation on some of these provisions.

For fully-insured plans, most of these charges are the responsibility of the insurer. Self-insured plans should work with your third-party administrator (TPA) to ensure compliance. For more information, refer to the [8/31/2010 Keller Client Bulletin](#) or contact your Keller consultant.



Upcoming Health Care Reform Regulations

Some of the upcoming health care reform regulations we hope to receive in the near future include:

- ◆ Nondiscrimination testing for fully-insured health plans—public comments closed 3/11/2011.
- ◆ Standardized four page benefit summaries—originally due 3/23/2011, NAIC submitted sample forms and recommendations to HHS early in March 2011. Health plans will begin using these templates for plan years beginning on or after 3/23/2012.
- ◆ 60 day prospective notice of plan changes—unclear if guidance will be issued along with standardized benefit summaries guidance since included in the same statute with the same effective date.
- ◆ Definition of “Essential Benefits” — expected late in 2011.
- ◆ Wellness program grants for small employers—status unclear.
- ◆ CLASS Act—implementation of the new long term care program expected no earlier than October 2012.
- ◆ Automatic enrollment for large employers — regulatory process in early stages, release date unclear.

Keller is committed to keeping you informed on all aspects of the regulatory process as health care reform provisions take effect. If you have any questions, please contact your Keller consultant or the legislative compliance team.

Form 5500 Reminder

Form 5500 reports are due by the end of July for 2010 calendar year welfare plans (with at least 100 participants at the beginning of the plan year). With your input and Schedule A data, Keller prepares the Form 5500s and posts them to a secure website for your firm’s electronic signature and transmission to the Department of Labor.



If the person responsible for electronically signing your Form 5500s has not already registered with the DOL, please go to www.efast.dol.gov/welcome.html to register. For the Form 5500 to be accurately transmitted, you must be registered as a “Filing Signer.” When you register for the first time, the process is not finalized until you have set up a password. If you registered last year as a “Filing Signer,” it is not necessary to register again this year.