

Publications

Labor and Employment Alert: New Guidelines for Women's Preventive Care Services

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If your group health plan is not grandfathered, your plan will need to provide first dollar coverage for contraceptives and a broad range of preventive care for women in accordance with new guidelines.

Timing

The Department of Health and Human Services (HHS) announced August 1, 2011 that one of its agencies, the Health Resources and Services Administration (HRSA), is adopting guidelines developed by the Institute of Medicine for women's preventive care. The guidelines will apply to non-grandfathered plans as of the first plan year starting on or after August 1, 2012 (that is, the first plan year starting on or after the one-year anniversary of the adoption of the guidelines). If your non-grandfathered plan operates on a calendar year, the guidelines will apply to your plan on January 1, 2013. The guidelines do not apply to grandfathered plans.

Background

The Patient Protection and Affordable Care Act (PPACA) requires that a non-grandfathered group health plan provide first dollar coverage for four categories of preventive care services.

1. Items and services that have an A or B rating in the current recommendations of the United States Preventive Services Task Force;
2. Routine immunizations currently recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;
3. Preventive care and screenings for infants, children, and adolescents in guidelines adopted by the HRSA; and
4. Preventive care and screenings for women in guidelines adopted by the HRSA (the category applicable to the new guidelines).

New guidelines

While contraceptive coverage has been highlighted in the popular press, the new HRSA guidelines actually add eight categories of services and supplies that must be covered by non-grandfathered plans (see <http://www.hrsa.gov/womensguidelines/> for more details):

1. Contraceptive methods and counseling (with a narrow exception for religious institutions);
2. Well-woman visits;
3. Screening for gestational diabetes;
4. Human papillomavirus testing;
5. Counseling for sexually transmitted infections;
6. Counseling and screening for human immune-deficiency virus;
7. Breastfeeding support, supplies (such as breast pump rental), and counseling; and
8. Screening and counseling for interpersonal and domestic violence.

Medical management still permissible

Although non-grandfathered plans must provide first dollar coverage for all of these preventative services and supplies, plans can still use programs to manage these costs. "First dollar coverage" means that a plan cannot apply a deductible, co-pay, or coinsurance to in-network preventive care services or supplies. A plan is, however, permitted to apply cost sharing to out-of-network preventive care and use other reasonable medical management techniques. That means, for example, a plan need not provide free brand name birth control pills if a generic alternative is safe and effective.

Other developments impacting companies with employees in New York

New York recently became the sixth state to legalize same-sex marriage (joining Connecticut, Iowa, Massachusetts, New Hampshire, Vermont, and Washington, D.C.). To the extent that you haven't yet, we recommend that you review your plans, policies, and procedures to confirm that they appropriately address eligibility and taxation for this new class of potential spouses.

Another development in New York has received less attention: The Low Income Support Obligation and Performance Improvement Act requires that you report whether New York employees are eligible for group health coverage for their dependents. This information will be reported quarterly on Form NYS-45 starting with the third quarter of this year and for new hires on Form IT-2104. See http://www.tax.ny.gov/forms/withholding_cur_forms.htm for more information.

This client alert is for general information purposes and should not be regarded as legal advice. As always, please let us know if you want more information or have questions about how these developments apply to your situation.

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