




Employee Benefits Broadcast
The Benefits News You Need in 60 Minutes or Less

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Employee Benefits Broadcast

**“The Benefits News You Need
in 60 Minutes or Less”**

**Tuesday, August 23, 2011
12:00 p.m. – 1:00 p.m. CST**

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Employee Benefits Broadcast

Housekeeping Issues

- Call 866.493.2825 for technology assistance
- Dial *0 (star/zero) for audio assistance
- To ask questions, use the pull down Q&A menu
- We encourage you to Maximize the PowerPoint to Full Screen Usage:
 - Hit F5 on your keyboard
- To print a copy of this presentation:
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Employee Benefits Broadcast

Today's Topics

- **Headline News:** Update on Health Care Reform — Claims, Appeals, and External Review Requirements and Preventive Services
- **In the Spotlight:** Wisconsin Taxation of Dependent Child Health Coverage — A "Nuts and Bolts" Discussion



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Headline News



Update on Health Care Reform — Claims, Appeals, and External Review Requirements and Preventive Services

Leigh C. Riley



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Headline News

PPACA Rules Regarding Claims and Appeals

- July 2010 regulations
- Started with ERISA claims and appeals framework
- Added several other requirements
- June 2011 regulations now make changes, effective July 22, 2011



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Headline News

Changes to Claims and Appeals

- Then → Claims involving urgent care must be decided within 24 hours
- Now → **Must be decided within 72 hours**
- **Must defer to attending physician regarding urgency of claim**



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Headline News

Changes to Claims and Appeals

- Then → Any claims or appeal denial has to include diagnosis or treatment codes
- Now → Do not need to be automatically provided
- **Must include notice in any claim or appeal denial that codes available upon request**
- **Upon request, must provide “as soon as practicable”**



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Headline News

Changes to Claims and Appeals

- Then → Plan participant could immediately seek external review or court review unless plan strictly complied with every requirement for claims and appeals
- Now → Can immediately file suit unless failure to comply is:
- De minimis
 - Non-prejudicial
 - Attributable to good cause or matters beyond plan's or issuer's control
 - Part of ongoing good-faith exchange of information
 - Not reflective of pattern or practice of non-compliance



In the Spotlight

Changes to Claims and Appeals

- **Upon written request, plan must explain within 10 days why it believes it meets these requirements so that participant can make informed judgment**
- If external IRO or court rejects participant's request for review, then participant can continue to pursue internal appeals process
- **Plan must notify participants of availability of appeal within 10 days.**



Headline News

Changes to Claims and Appeals

- Then → Plan had to provide claims and appeals notices in non-English language if 25% of plan participants (for plans covering fewer than 100) or lesser of 10% or 500 (for plans covering 100 or more) are literate in same non-English language
- Now → Focuses on population of county in which plan participant resides
- **If 10% or more literate in same non-English language, must include one sentence disclosure about the availability of non-English language services (model sentence available from DOL)**
- DOL will **annually update** list of counties



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Headline News

Changes to Claims and Appeals

- Now → **Upon request, must provide claims or appeal notices on non-English language**
- **Must also make oral services available in non-English language (such as telephone hotline)**



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Headline News

PPACA Rules Regarding External Review

- Fully-insured plans had to comply with State insurance law external review procedures provided such procedures complied with PPACA guidelines
- Self-insured plans had to begin providing external independent review using third-party independent review organizations (IROs)



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Headline News

Changes to External Appeal – Fully - Insured Plans

- | | | |
|------|---|--|
| Then | → | State insurance laws had to be updated to comply with PPACA requirements for external review by July 1, 2011 |
| Now | → | Transition period extended through December 31, 2011 |



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Headline News

Changes to External Appeal – Self-Insured Plans

- Then → **Any** claim denial subject to IRO review except relating to plan eligibility
- Now → For claims for which external review has not been initiated by 9/20/11, only can seek external review if:
- denial involves medical judgment or
 - denial involves rescission of coverage
- IRO (not plan administrator) to determine whether external review request does or does not relate to medical judgment.



Headline News

Changes to External Appeal

- Then → External review decision binding on the plan and participant
- Now → Clarifies that plan can seek court action
But must make benefit payments in the meantime



Headline News

Plan Sponsor Action Items

- Decide whether you want to “go backwards”
- Check with TPA or insurance carrier regarding changes (see everything in bold)
- Revise claims and appeals disclosure in SPD
- Consider changes to IRO contracts; separate cost to determine whether claim involves medical judgment



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In the Spotlight

Preventative Services

- PPACA says no cost-sharing for preventative services (grandfathered plan exempt)
- For women, Health Resources and Services Administration (HRSA) to provide preventative care and screening coverage rules
- HRSA permitted to establish exemptions for religious employee plans regarding contraceptive services.



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In the Spotlight



Wisconsin Taxation of Dependent Child Health Coverage — A "Nuts and Bolts" Discussion



Isaac J. Morris & Casey K. Fleming

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In the Spotlight

Introduction – What a Mess!

- Health Care Reform – March 23, 2010
- Wisconsin Specific Rules
- Part 1: Review of the Rules
 - What are the coverage requirements?
 - What coverage is taxable for federal purposes?
 - What coverage is taxable for Wisconsin state tax purposes?
- Part 2: Employer Responsibilities

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In the Spotlight

Adult Child Coverage Requirements

- What are the coverage requirements for **self-insured** group health plans in WI?
 - General Health Care Reform Rule
 - Coverage until Age 26
 - Applies to all Medical Plans (but not stand alone dental or vision plans or retiree only plans)



In the Spotlight

Adult Child Coverage Requirements

- What are the coverage requirements for **fully-insured** group health plans in WI?
 - Health Care Reform “Age 26” Rule PLUS
 - Coverage through month in which child turns 27 if the child is:
 - Unmarried; and
 - Not eligible coverage for under his or her employer’s group health plan for which the child’s premium contribution is less than or equal to the additional amount the employer would have to pay to cover the child
 - Age 27 Requirement Ends 12/31/2011



In the Spotlight

Tax Rules – Federal

- Federal Tax Rules for Adult Children **Prior to** Health Care Reform
 - Value of coverage provided to an employee’s child was not taxable if the child qualified as the employee’s dependent



In the Spotlight

Tax Rules – Federal

- Federal Tax Rules for Adult Children **After** Health Care Reform
 - **Not Taxable** -Value of coverage provided for a child through the end of year in which the child turns 26 (regardless of the child’s dependent status)
 - **Taxable** – Value of coverage for: (i) a child beyond the year in which the child turns 26 (unless the child is the employee’s dependent) and (ii) someone who does not qualify as a “child” for tax purposes

Note - IRS definition of “child” = biological child, stepchild, foster child, adopted child



In the Spotlight

Tax Rules – Wisconsin

- Wisconsin Tax Rules for Adult Children
 - Wisconsin still follows the Pre-Health Care Reform Federal Tax Rules
 - **Not Taxable** - Value of coverage provided to children who qualify as an employee's dependents
 - **Taxable** – Value of coverage provided to anyone else (e.g., an adult child who does not qualify as the employee's dependent)
- Note: WI may not conform to the current Federal Rules for some time



In the Spotlight

Tax Rules – Definition of Dependent

- Who Qualifies as a Dependent for Health Coverage Purposes?
 - Applies for:
 - WI tax purposes
 - Federal tax purposes when: (i) coverage extends beyond the year in which the child turns 26 or (ii) Is provided to someone who is not the employee's child



In the Spotlight

Tax Rules – Definition of Dependent

- Who Qualifies as a Dependent for Health Coverage Purposes?
 - Option 1 – “Qualifying Child”
 - The child must be (a) under age 19 at the end of the year, (b) under age 24 at the end of the year and a full-time student, or (c) any age if permanently and totally disabled;
 - The child must have lived with the employee for more than half the year (or, if the employee divorced, the child must live with the employee and/or the employee’s former spouse for more than half the year); and
 - The child must not have provided more than half of his or her own support for the year (or, if the employee is divorced, the child must have received over half of his or her support for the year from the employee and/or the employee’s former spouse).



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In the Spotlight

Tax Rules – Definition of Dependent

- Who Qualifies as a Dependent for Health Coverage Purposes?
 - Option 2 – “Qualifying Relative”
 - The child must be an individual (other than the employee’s spouse) who, for the taxable year, has the same principal place of abode as the employee and is a member of the employee’s household;
 - The employee must be providing over one-half of the child’s support for the year; and
 - The child cannot be claimed as a tax dependent by anyone other than the employee.



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In the Spotlight

Example 1

Self-Insured Group Health Plan

In 2011, Acme, Inc. self-insured health plan provides coverage to (i) children until each child's 26th birthday and (ii) minor grandchildren.



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In the Spotlight

Example 1

- Employee A enrolls her **non-dependent** 25 year old daughter (who turns 26 on July 1).
 - Covered until July 1
 - Federal – Not Taxable
 - Wisconsin – Taxable



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In the Spotlight

Example 1

- Employee B enrolls his **dependent** 22 year old son.
 - Covered all year
 - Federal – Not Taxable
 - Wisconsin – Not Taxable



In the Spotlight

Example 1

- Employee C enrolls her 2 **non-dependent** 3 year old grandchildren.
 - Covered all year
 - Federal – Taxable
 - Wisconsin – Taxable



In the Spotlight

Example 2

In 2011, XYZ, Inc. maintains a fully-insured plan which, as required by WI law, provides coverage until the end of the month in which the child turns 27.

- Employee X enrolls his **non-dependent** 26 year old daughter (who turns 27 on June 15).
 - Covered until June 30
 - Federal – Taxable
 - Wisconsin – Taxable



In the Spotlight

Flexible Spending Accounts

- Are the Federal and Wisconsin Tax rules the same for health care flexible spending accounts?
 - Yes
 - Federal — Reimbursements for children through end of year in which child turns 26 are not taxable
 - Wisconsin - Reimbursements taxable unless the child qualifies as the employee's dependent



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- General Rule – Employers have obligation to withhold on and report the fair market value of taxable coverage
- Action Steps:
 - Determine if the coverage is taxable for Wisconsin and/or Federal purposes
 - If yes:
 - Determine the value of coverage
 - Withhold on the value of coverage
 - Report the value of coverage on W-2
 - Remember reciprocity rules



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- Determine if the coverage is taxable.
 - Is the child the employee's dependent
 - Yes – Not taxable for Wisconsin and Federal purposes
 - No – Taxable for Wisconsin purposes; Generally not taxable for Federal purposes unless the plan provides coverage beyond the year in which the child turns 26



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- How will employers know if a child is employee's dependent?
 - Employer cannot make this determination
 - Two Options:
 - Default Method – Tax all coverage beginning with the year in which the child turns 19.
 - Certification



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- Determine the value of taxable coverage – 3 Methods
 - Value of Individual Policy
 - Incremental Value
 - COBRA Premium Rate (minus 2% admin fee)
 - Individual
 - Family (if cheaper)



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- Example 3 – Self-Insured Group Health Plan
 - In 2011, Acme, Inc. self-insured plan provides coverage to (i) children until each child's 26th birthday and (ii) grandchildren.
 - Employee A enrolls her non-dependent 25 year old daughter (who turns 26 on July 1).
 - Employee C enrolls her 2 non-dependent grandchildren.
 - The plan's individual and family COBRA rates (minus the 2% admin fee) are \$600 and \$1000



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- Example 3 – Self-Insured Group Health Plan con't
 - Employee A's daughter (who is covered until July 1)
 - 6 months taxable Wisconsin coverage = \$3,600 (6 x \$600)
 - Employee C's grandchildren (covered all year)
 - 12 months taxable coverage = \$12,000 (12 x \$1,000)



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- The Difficulty of Flexible Spending Accounts
 - How do you determine what is taxable?
 - Talk to your administrator
 - Tax and withhold if you can confirm
 - Make other good faith attempts



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- Withhold on the value of coverage.
 - Yes, withholding applies!
 - Cannot simply report on W-2.
 - If coverage is taxable, then simply treat as more wages



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- Withholding FAQs
 - What if we have not been withholding properly?
 - Try to correct quickly
 - One time retroactive deduction
 - Multiple deductions



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- Withholding FAQs
 - Risk of penalties/interest small if correct by year end
 - Only a concern if using certification method



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- Report the Value of Coverage.
 - Taxable for federal and Wisconsin—report as additional wages in Box 1 of W-2
 - Taxable for Wisconsin only
 - Box 16 of W-2 or Supplemental Wisconsin Only W-2



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- Determine if reciprocity affects the withholding and reporting obligation.
 - WI generally does not tax personal service income of persons who live in IL, IN, MI, and KY who work in WI
 - Same is true for persons who live in those states who work in WI



In the Spotlight

Employer Responsibilities — Withholding and Reporting

- WI Previously had reciprocity with MN—ended effective 1/1/10
 - Both states have indicated desire to reinstate, but may not happen until 2012 or later



Employee Benefits Broadcast

Questions & Answers



Employee Benefits Broadcast

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Employee Benefits Broadcast

Mark Your Calendar

- The final session of the 2011 Employee Benefits Broadcast Series will take place on the following date:
 - October 25, 2011



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Thank You

- A copy of the PowerPoint presentation and a multimedia recording will be available on Foley's website within 24 to 48 hours:
http://www.foley.com/news/event_detail.aspx?eventid=3847
- We welcome your feedback. Please take a few moments before you leave the web conference today to provide us with your feedback:

<http://www.zoomerang.com/Survey/WEB22CXN3U7VXF/>



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