HR insider℠ bulletin

DECEMBER 2007

Effective Jan. 1, 2009

Employers to Review §125 Plans to Comply with New Regulations

THIS PAST August, the IRS issued the most comprehensive revisions to rules governing cafeteria plans in two decades. The proposed 124 pages update, organize, and consolidate the agency's previous regulations and guidance, explains Susan Relland, attorney with Miller & Chevalier in Washington, D.C.

Although the rules won't be finalized until sometime next year for plans taking effect on or after Jan. 1, 2009, legal experts strongly urge employers to begin examining their plans and documents now to make sure they will be in compliance when that day comes. The IRS advises that employers rely on the new rules now.

"The bottom line, however, is that these proposed regulations are going to require everybody to look again at their documents," cautions Frank Palmieri, partner, Palmieri & Eisenberg in Princeton, N.J. Regardless of the complexity of the plan, all employers who offer a Section 125 plan must comply with certain provisions in the establishment and operation of the plan in order to ensure the validity of the plan's tax-preferred status, according to Milliman's Penny Plante and Donald Sims.

Relland also notes that the strict tone of the proposed rules indicates that the

(Continued on page 2)

More Collaborative Role

Workers Want Control of Healthcare Destiny

A RECENT SURVEY of employees age 22 to 69 who work full- or part-time for an organization with at least 2,000 employees insured through an employer- or union-sponsored health plan found a changing attitude among the workforce to be a more collaborative role in their healthcare decisions vs. a "just fix me" attitude of years past.

"The most important person in the healthcare equation is the patient, the consumer," says Helen Darling, president, National Business Group on Health, survey sponsor. "That's really new. It's been mostly physician-centered care" up until the past decade or so.

(Continued on back)

Cost-Saving Measure

What's the Next Stage for CDHC?

IN ITS INFANCY, the key question regarding consumer-directed healthcare (CDHC) was: "Does it work?"

Regardless of one's answer, CDHC is now part of the health benefit landscape—with more and more employers adopting it, and still more interested in it, as an option, according to Terry Humo, Esq., benefits consulting attorney and author of Thompson's Special Report: *Consumer-directed Health Care: What's the Next Stage.*

Humo notes that what's really needed is an analysis of the data and circumstances to determine: (1) What are the factors that make some CDHC programs successful? (2) How can those successes be copied by others? (3) What were the factors that contributed to the lack of success in other programs so that they can be avoided?

After an analysis of the data and nationwide sharing of successful strategies, the next step is to focus on other ways CDHC concepts can be applied to healthcare and other societal issues. For example: (1) Can health savings accounts (HSAs) be used to promote national savings in ways that will reduce demands on Medicare? (2) How can HSAs be used to promote retirement savings generally? (3) How can CDHC generally help reduce dependence on foreign oil and general use of fossil fuels? (4) How can CDHC developments in retail clinics and MinuteClinics help address problems in geographic distribution of healthcare

(*Continued on page 2)*

Section 125 Plans . . .

(Continued from page 1)

IRS plans to take a much tougher enforcement stance on compliance from now on.

According to Josh Norris, attorney with Fisher & Phillips LLP in Atlanta, failure to comply with the rules will result in a disqualification of the employer's cafeteria plan – which means the employee's entire election would be included in gross income, regardless of whether he or she elected taxable or nontaxable benefits.

According to Milliman and Fisher & Phillips, the following items highlight the most significant features of the new regs:

1. Clarification of the eligibility definition;
2. Explanation/description of benefits that can/must be offered;
3. Written plan documents;
4. Calculation of imputed income from life insurance to come from one table (Table 1) only;
5. Change plan year only for a valid business purpose;
6. Irrevocable employee elections (electronic and automatic);
7. Grace period extends access to money in FSAs an extra two-and-a-half months;
8. Substantiation of all expenses; and
9. Timing of discrimination testing.

Employers who have been following the updates to the regulations over the years will find they have very little to do at this point. However, an audit of one's cafeteria plan should reveal any fine-tuning needed. ■

More Collaborative Role . . . (Continued from page 1)

The days when patients relied on their physician to make medical decisions for them are long gone. Faced with making a decision about treatment, 90 percent of those surveyed prefer to consult sources beyond their doctor. Likewise, more than 70 percent of the 1,558 survey participants think consumers have a responsibility to learn about the costs for treatment options and make an effort to verify that a recommended treatment is necessary.

Even more think their employers should be involved in providing them with health information. "Ten years ago, you wouldn't see results like that," Darling noted. "In many cases, employers can help their workers become more engaged consumers by providing access to trustworthy, authorative sources of medical information."

Darling also noted that the expectation that the employer should serve as a conduit to health information is a change from years past, when the employer's role was largely to pay the medical claims.

In addition to pointing employees to medical information, Darling said employers should reinforce the impact that lifestyle changes can have by providing online access to medical information and reinforcing the importance of behavioral changes. "If we can get people to stop making themselves sick" because of poor lifestyle habits, Darling says, "they won't need to go to the doctor but once a year." ■

Cost-Saving Measure . . . (Continued from front)

providers? (5) How can CDHC address the shortage of primary care physicians, lack of medical care in rural areas, and lack of caregivers reflective of the cultural diversity of patients?

In addition, comments voicing skepticism of CDHC must be scrutinized to ensure that the focus is on the success stories – and not on discussions on cost-shifting and misinformation – so we can ultimately move forward to help resolve these larger societal issues, notes Humo.

If we do not have individuals take responsibility for their health in both behavior and financing, if we do not have transparent healthcare quality and cost, if we do not push healthy lifestyles in meaningful and lasting ways, and if we do not capitalize on the successes that CDHC is producing, what then?

To misquote an old Chinese proverb: If we do not change our course (in healthcare), we are sure to reach where we are now headed. CDHC is a change course.

The complete report is available at: http://www.thompson.com/images/thompson/reports/hr122007_consumer-directed-healthcare.pdf. ■

Voluntary Products to Complement Your Core Package

Find out how Gemini Group can help you implement a voluntary benefits package that will complement your company's core benefits. Three of the most important objectives for an employer in managing personnel issues are:

- Attracting and retaining loyal workers
- Providing employees choice and security in their benefits package
- Managing the organizations dollars

Voluntary benefits have proven to be important offerings that address each of the three objectives. Selecting the right benefits, communicating them properly and administering them efficiently is the Gemini advantage.

Gemini is licensed with over 20 of the largest voluntary companies in the country thus allowing us to pick the carrier and product to fit your company's needs. We seek to achieve the right balance that ultimately helps your organization better manage costs and attract and retain loyal workers.■

Happy Holidays

Introducing Gemini HRS

A Full End to End Human Resource Management System a Mouse Click Away

Geminihrs.com offers a full end to end Human Resource management system that allows employers to track, deliver, and access relevant data at the click of a mouse. Through a single system, an employer can distribute company documents, benefits, and update payroll records, eliminating double entry and fragmented systems.

Employers can deliver company forms and documents, complete online performance reviews and manage employee recruiting online. Geminihrs.com allows employee self service so employees can update personal records, check leave balances and request time off from any computer. All changes flow seamlessly through the system, ending the need for multiple entries in multiple pro-grams. HR is now seamless, consolidated and at your fingertips.

System Features:

HUMAN RESOURCES

- **Personnel File Management**
- **Pre-populated Forms**
- **Job Applicant Tracking**
- **Performance Reviews**
- **Online Employee Scheduling**
- **Online File Cabinet**
- **Employee Pictures**

PAYROLL

- **Complete Payroll Integration**
- **Time And Attendance Tracking**
- **Several Time Clock Options**
- **Customized Time Sheets**

BENEFIT MANAGEMENT

- **Online Benefit Enrollment**
- **Billing Report Administration**
- **Open Enrollment Tracking**
- **COBRA Administration**
- **FSA/HRA/HSA Admin.**
- **Workers Compensation Claims**

Contact Gemini Group today for more information regarding Geminihrs.com and its full range of HR solutions.

HR*insider*® *bulletin* is brought to you each month courtesy of **GEMINI GROUP**, a UBA® member firm. For more information, contact us at: **info@geminigrp.com**.

Or visit our website: **www.geminigrp.com**

Copyright © 2007 United Benefit Advisors, LLC. All Rights Reserved.