

Benesyst Insights

THE TOP 5 THINGS EVERY EMPLOYER NEEDS TO KNOW ABOUT THE IMPACT OF HEALTH REFORM LEGISLATION

On March 30th, President Obama signed into law wide-sweeping Health Reform Legislation that includes certain provisions that will impact the business, practices and benefits programs of most employers. And while the legislation's total impact remains unclear at this point, it is expected that most employers – including even those who do not need to change their business practices – will experience significant indirect impacts on the cost of health insurance and Medicare benefits. For that reason, the team at Benesyst – a proven, high technology, high performance benefit administration outsourcer – would like to share with your team what we think are “The Top 5 Things Every Employer Needs to Know” as you begin to assess the impact of this new legislation. While our list won't answer all your questions, in fact it might just generate a few more questions than it answers, we think it's a good, thought-provoking place to start.

1. THE CHANGE STARTS NOW

The effective dates of different portions of the overall Health Reform Legislation range from near term (within six months) to 2018. Employers need to pay special attention to understand which of their plans/programs are impacted and, if needed, adapt to the provisions that go into effect in 2010. Near-term, employers must respond to prohibitions on preexisting condition exclusions for children under 19, prohibitions on lifetime policy limits, prohibitions on rescission of coverage, restrictions on annual limits, requirements to provide a uniform summary of benefits disclosure, changes to flexible spending accounts, the continuation of dependent coverage for adult children, tax implications for retiree benefits affecting larger employers, and more. And it is almost certain that additional governmental guidance will be issued that changes effective dates, requirements, exceptions, and interpretations. For example, the IRS has yet to weigh-in with their guidance about the full tax impacts. Our best advice? Start at the beginning to learn all you can about what's required near-term. You don't want to fall behind before the race even really begins.

2. YES, MR. VICE PRESIDENT. THIS IS A BIG DEAL

Just in case this is your first foray into learning all you can about Health Reform Legislation, let's summarize some significant points of the legislation:

- The requirements for mandatory coverages are changing and/or increasing. There are significant new requirements that restrict your plan from rescinding coverage, from excluding pre-existing conditions, or charging for most immunizations and preventive care.
- Deductibles, cost sharing (coinsurance) and the employee's share of premiums are limited under the new law.
- Plans are prevented, in plan years beginning in 2014, from imposing any annual or lifetime limitation/maximum on coverage, other than on those deemed “non-essential.”
- Large employers will have to pay tax if they fail to provide “affordable” coverage to all employees. The Reform Legislation also includes provisions to create a system of state-sponsored Health Benefit Exchanges,

voucher programs, and tax credits that make health insurance affordable for lower income individuals. For employers whose employees opt to take part in the exchanges, there may be tax implications.

- Individuals will become subject to a “penalty” tax if they opt not to purchase coverage.
- Dependents of your employees must remain covered under your health plans until their 26th birthday – even if they are no longer a “tax dependent” of your employee and yes, even if they are married.
- If your coverage is offered on the “first of the month after 90 days” (which means waiting up to 120 days) you will probably need to change that to “first of the month after 60 days” as the new law states that waiting periods must be no longer than 90 calendar days.
- Your paper or electronic communications to your employees describing their health coverage and the value of individual programs will be subject to new standardized guidelines and regulations (in addition to the SPD). There are significant penalties if you’re found to be “willfully” non-compliant with the new regulations.
- Your benefits processes are going to change. For example, employers with greater than 200 employees will also be required to auto-enroll employees for health benefits
- All health plans, including self-funded health plans will become subject to new federal “transparency requirements” disclosing financial data about the plan.
- Employees are given a new voice in provisions related to how appeals for denied claims are handled.
- Employers will have to report the aggregate value of employer-sponsored coverage on W-2’s beginning in 2011. Yes, we said 2011.
- FSA, HRA, and HSA’s will no longer be able to reimburse for over-the-counter medicine or drugs as of January 1, 2011, and taxes on non-qualifying HSA distributions are increasing. FSAs will be limited to an inflation-indexed \$2,500 in 2013 and eventually (in 2018) subject to inclusion in the excise (“Cadillac Tax”) calculation.

This *very short* summary of some of the changes that are in store for HR and employers is only intended to give you a sense of the scope and magnitude of the change, and the need to begin to assess its impact on your organization early in the game. Of course, you are not on your own to figure out what all this change means for your organization. (See #3 and #5 Things You Should Know)

3. YOUR “PARTNERS” SHOULD BE HELPING YOU

Obviously you don’t offer your benefit programs without the assistance of a large group of third party advisors and vendors. Tap into the collective knowledge of this team – your valued benefit consultants and brokers, capable administrators, legal resources, accountants, and industry peers – to start assessing the impact of certain changes on your organization and to plan for adjustments.

For example, when you start to re-enroll dependent children who are older than your previous cut-off age, will your carriers’ systems be ready to enroll all eligible individuals without glitches or confusion? How do you plan to provide the aggregate value of employer sponsored coverage (the employee plus employer portions of health, dental and vision coverages) for inclusion in the W-2 in 2011? For self-funded plans this means using the COBRA-equivalent premium. Will this be an easy undertaking (“push of a button”) or will it require a manual process? What data elements will you need to include and will your payroll systems/partner be ready to accept that data and include it for each employee as required by the new legislation? What about the tax impact of changing the definition of “dependent?” What’s the most practical way to “auto-enroll” employees in health coverage?

In other words, your team alone won’t be able to effect all the change that’s needed for compliance. You need to take the lead reaching out to key players in your “benefits ecosystem” to ensure that your organization is ready. Ultimately, you – as the employer – bear the responsibility of ensuring compliance and are liable for any fines/penalties for non-compliance.



4. START TALKING TO YOUR EMPLOYEES NOW

Just as your organization wants to understand the Health Reform Legislation to see “What’s in this for us?,” many employees are wondering “Are my coverages going to change?” “Will I have to pay more now for my insurance?” “Are my out-of-pocket costs or taxes going up?” “Will my employer opt to discontinue coverage and force me to enter one of these Exchanges I have heard about?” Your organization has an immediate opportunity to be a source of good and reliable information for your employees. Your response will depend on the impact of the new legislation on your own organization. The extent of the changes, in turn, depends on your size and current benefit structure. While this legislation affects all employers, many (particularly larger) employers may have fewer changes to make; something you may wish to share with your employees early on. Once you have a solid assessment and response plan in place, be sure to tell your employees about how your organization is adapting and how they will learn about future changes, especially anything that will impact them directly. This is a chance to engender significant employee goodwill while providing insightful and educational information.



ABOUT BENESYST

Benesyst is an established, high technology, high performance benefit administration outsourcer. Benesyst is the creator of **BeneSmart**[®], a state-of-the-art, online enrollment and eligibility management solution that revolutionizes the way systems “think” about and manage benefits. Benesyst is also a “best of breed” Flexible Benefit Account, HIPAA/COBRA/State Continuation and Short-Term Disability Benefit Administrator, offering high-touch, high performance innovative solutions for these traditionally outsourced services.

Benesyst’s experienced, carefully selected professional staff combines with major investments in communication, processing and interactive technologies to provide employers with benefit outsourcing services that receive industry-leading HR and participant satisfaction ratings. Our services work, work well, and work consistently. For more information email sales@benesyst.com or phone 866.786.3366. Or visit our website at www.benesyst.net.

5. YOU ARE NOT ALONE

This is complex change and let’s face it, anything “governmental” is never straightforward or easy to understand. Fortunately, every employer with employees in the U.S. and every HR peer you know has the same mandate to interpret these changes and make sense of them. As a result, benefit consultancies and brokerages, law firms, accounting firms, plan administrators, and insurers are making their knowledge available to you in the form of webinars, blog posts, newsletters, and white papers. Simply conduct an Internet search and you can uncover a wealth of knowledge to create the foundation of your own organizational strategy.

Here are a few links that we at Benesyst have found useful:

- The official U.S. government web site devoted to Health Reform.
- The Employee Benefits Institute of America (“EBIA”) provides a constant stream of valuable information and accurate, practical interpretation from its legal staff.
- The Internal Revenue Service recently launched a new Web page that provides guidance on tax credits in the new health reform law for small employers and tax-exempt organizations that provide health insurance coverage.
- This newsletter, from the Wagner Law Group, offers a good summary of key changes with a legal angle.
- This 2-part Legal Alert from Employee Benefits News does a good job summarizing key elements of the new legislation.
- This blog is devoted to exploring specific provisions of the Health Reform Legislation and is hosted by five benefits experts who provide their perspectives.