



Wells Fargo Insurance Services Legislative Update

February 26, 2009

Legislative Update

SCHIP Legislation

- **Premium subsidies:** Low income earners and their children can retain employer group health coverage or enroll in state plans. Premium subsidy to be paid to employer (employer must pay 40% of premiums for employee only coverage and offer a plan other than a HDHP/HSA). Employee can choose to remain on employer plan or waive coverage under employer plan and enroll in state program. Employer must decide if they will or will not accept premium subsidy from the state for low income earners.
- **Employer notification requirements:** By April 1, 2009 employers must notify employees of ability to enroll or waive enrollment in employer plan and elect to receive premium subsidies (60 day special enrollment period)
- **Purchasing pool for employers with less than 250 employees:** Employers can join state pools to purchase healthcare if they have low income employees or pregnant women eligible for state assistance

Legislative Update

COBRA Premium Assistance

COBRA premium assistance is being provided to “assistance-eligible individuals:”

- Any qualified beneficiary (including employees, spouses, and dependent children);
- Who had a qualifying event consisting of “involuntary termination of employment” between September 1, 2008 and December 31, 2009; and
- Who is eligible for and elects COBRA coverage (must have been covered by employer’s group health plan)
- Note: Premium assistance is available to all assistance eligible individuals but
 - Partial recapture begins when modified adjusted gross income is \$125,000 (\$250,000 for joint returns)- report additional income in 1040 Forms
 - Full recapture if MAGI is \$145,000 (\$290,000 for joint returns)
 - Taxpayer can avoid recapture by making a permanent election to waive the right to COBRA premium assistance

Legislative Update

COBRA Premium Assistance (continued)

COBRA premiums are deemed to be paid-in-full for qualified beneficiaries who are assistance-eligible individuals, if the qualified beneficiary or a third party (other than the employer) pays 35% of the premium

- Begins the first billing cycle on or after February 17, 2009 (e.g., March 1, 2009 for calendar-month billing plans)
- Continues for up to 9 months for each assistance-eligible individual
- Includes federal and state COBRA continuation, and applies to group health plans maintained by all employers (including public agencies)
- Exception: Does not apply to healthcare flexible spending arrangements
- Exception: No COBRA premium assistance beginning with the first COBRA billing cycle that the individual is eligible for:
 - Medicare
 - Any other group health plan (other than coverage consisting only of dental, vision care, counseling, referral services, healthcare flexible spending arrangement, or an on-site medical facility)

Legislative Update

New COBRA requirements – Employer Action Items

- **Identify “assistance eligible individuals”** – employees involuntarily terminated during the period of September 1, 2008 and December 31, 2009.
- **COBRA Premium Assistance** – reduce the COBRA premium rate for assistance eligible individuals and their eligible dependents by 65%. The assistance eligible individual will pay 35% of premium rate. Premium costs include the 2% administrative fee.
- **Extend Election Period** – provide a 60 day notice for assistance eligible individuals to elect COBRA continuation coverage if they are not currently enrolled on February 17, 2009 (March 1, 2009 for plans who bill based on the first day of the month).
- **Plan Change Option** – employer must determine if they want to allow individuals to select another plan option (same/lower cost option) for COBRA coverage.

Legislative Update

New COBRA requirements – Employer Action Items

- **Update COBRA Notice** – the election notice must be updated or supplemented to include the availability of the premium assistance. DOL will be issuing a model notice on March 19,2009.
- **Calculate Federal Subsidy** – Employers may apply the subsidy amount as a credit against payroll taxes (federal income tax and FICA) that are due. Employer to create and submit report to the government.

Legislative Update

New Proposed Cafeteria Plan Regulations (Effective January 1, 2009)

- Employer cannot have different contributions for highly compensated employees
 - Employer cannot pay more towards the coverage of highly compensated employees (i.e. officers)
 - Highly compensated employees cannot contribute more on a pre-tax basis for their health care coverage than non-highly compensated employees
- Employer must perform nondiscrimination testing on an annual basis for all plans (POP, HCSA and DCAP)

New FMLA Leave Provisions and Forms (Effective February 16, 2009)

- **New Contingency Operation Leave** – up to 12 weeks in a 12 month period to address the call to active duty of a parent, spouse or child
- **Service Member Leave** - employee may take up to 26 workweeks of job protected leave with benefit continuation to care for a parent, child, spouse or next-of-kin injured in the line of duty in the Armed Forces
- New Medical Certification Forms
- New Poster Requirements