Sage HRMS

Health Care Reform

2013 Compliance Checklist

Created and provided by HR 360, Inc.
in partnership with Sage.

2013 Health Care Reform Compliance Checklist

The following checklist is designed to help employers and insured group health plans review their compliance with key provisions of Health Care Reform taking effect in 2013. If you have any questions regarding your responsibilities, please contact a knowledgeable employment law attorney, benefits advisor, or your carrier.

Please Note: This list is for general reference purposes only and is not all-inclusive. The information is subject to change based on new requirements or amendments to the law. Additionally, your company or group health plan may be exempt from certain requirements described below.

1. Evaluate Grandfathered or Non-Grandfathered Status of Plan

A grandfathered plan is one that was in effect on March 23, 2010. If a plan loses its grandfathered status, it may no longer be exempt from certain requirements under Health Care Reform.

- ☐ Determine whether any changes to the plan that reduce benefits or increase costs to employees and dependents enrolled in coverage result in a loss of grandfathered status.
- ☐ To maintain grandfathered status, provide a statement indicating the plan believes it is a grandfathered health plan, along with contact information for questions and complaints, whenever a summary of benefits under the plan is provided to participants and beneficiaries (model notice available here).

2. Review Plan Documents for Required Changes to Plan Benefits

Certain requirements apply on a plan year basis, meaning the changes take effect when a group health plan begins a new plan year. As a result, compliance deadlines may vary.

- ☐ Annual limits on "essential health benefits" are being phased out according to the limits set by law (no lower than $2 million for plan years starting between September 23, 2012 and January 1, 2014).
    - Note: Certain limited benefit or "mini-med" plans that received temporary waivers from the rules concerning annual dollar limits, as well as stand-alone HRAs in effect prior to September 23, 2010 which are automatically exempt until January 2014, must distribute an annual notice to participants and subscribers stating that the plan has restrictive coverage and includes low annual limits (required language for the notice is available for both limited benefit plans and stand-alone HRAs).
- ☐ For plan years beginning on or after January 1, 2013, salary reduction contributions to health flexible spending arrangements (FSAs) are limited to $2,500 annually, indexed for inflation for subsequent plan years. Written cafeteria plans must be amended by December 31, 2014 to reflect this change.
- ☐ Except for grandfathered plans, coverage of additional women's preventive services such as well-woman visits, breastfeeding support, domestic violence screening, and contraception is provided without cost-sharing requirements, starting with plan years beginning on or after August 1, 2012.
    - Note: Group health plans sponsored by certain religious employers are exempt from the requirement to cover contraceptive services. Additionally, certain non-profit organizations with religious objections to contraceptive coverage are provided more time—until the first plan year beginning on or after August 1, 2013—to comply with this requirement, provided that certification and notice requirements are met.

Notice of Copyright and Restrictions on Use: This document is protected under U.S. copyright laws and may not be copied, altered, reproduced, republished, uploaded, posted, or transmitted in any way (electronically or otherwise) except as expressly authorized in writing by HR360. The posting of this document on the Internet is strictly prohibited. **©2013** HR 360, Inc.

2013 Health Care Reform Compliance Checklist

3. Provide Required Notices to Employees and Dependents

Please contact your carrier or employment law attorney if you have questions regarding these notices.

Availability of Health Insurance Exchanges

☐ Provide current and new employees a written notice with information about an Exchange, including notice that employees may be eligible for a premium tax credit (if applicable) and that employees may lose employer health plan contributions if they buy a qualified health plan through the Exchange.

- **Note:** The U.S. Department of Labor (DOL) has delayed the original March 1 deadline for employers to comply with this notice requirement. The timing for distribution of the notices is expected to be **late summer or fall of 2013** and employers are not required to comply until further guidance is issued. The DOL is also considering providing a model notice that employers may use to satisfy this requirement.

Summary of Benefits & Coverage (SBC) and Notice of Plan Changes

☐ Starting with plan years and open enrollment periods beginning on or after September 23, 2012, provide participants and beneficiaries, without charge, a summary of benefits and coverage at specified times during the enrollment process and upon request, generally as follows:

- **Upon application**, as part of any written application materials for enrollment (or, if such materials are not distributed, no later than the first date the participant is eligible to enroll);
- **By the first day of coverage**, if there are any changes to the SBC from the time of application;
- **Within 90 days of special enrollment**, for individuals entitled to "special enroll" in group health plan coverage under HIPAA when certain work or life events occur;
- **Upon renewal**, at the same time that open season materials are distributed (or, if renewal is automatic, generally no later than 30 days prior to the first day of the new plan year); and
- **No later than 7 business days** following receipt of a participant or beneficiary's request.

Insured group health plans may satisfy this requirement if the issuer provides a timely and complete SBC to the participant or beneficiary. Templates, instructions, and related materials are available from the Center for Consumer Information & Insurance Oversight.

☐ Additionally, if any material modification is made in any of the terms of the plan or coverage that would affect the content of the SBC, that is not reflected in the most recently provided SBC, and that occurs other than in connection with coverage renewal or reissuance, the plan or issuer must provide notice to enrollees not later than 60 days prior to the effective date of the change.

4. Report Employer-Provided Health Plan Coverage on Forms W-2

This requirement does not apply to employers that were required to file fewer than 250 Forms W-2 for the preceding calendar year, unless and until the IRS publishes further guidance giving at least 6 months' advance notice of any changes.

☐ Beginning with calendar year 2012 Forms W-2 (required to be furnished to employees in January 2013), employers that provide a group health plan to their employees are generally required to report the cost of the coverage provided to each employee annually.

Notice of Copyright and Restrictions on Use: This document is protected under U.S. copyright laws and may not be copied, altered, reproduced, republished, uploaded, posted, or transmitted in any way (electronically or otherwise) except as expressly authorized in writing by HR360. The posting of this document on the Internet is strictly prohibited. **©2013** HR 360, Inc.

2013 Health Care Reform Compliance Checklist

5. Other Action Items for 2013

The following additional items may be of significance for certain employers and group health plans.

- ☐ **Additional Medicare Tax for High Earners.** Employers are required to withhold Additional Medicare Tax (at a rate of 0.9%) on wages or compensation paid to an employee in excess of $200,000 in a calendar year, for taxable years beginning after December 31, 2012. There is no "employer match."

- ☐ **Comparative Effectiveness Research Fees.** Effective for plan years ending on or after October 1, 2012, and before October 1, 2019, *plan sponsors of self-insured plans* and *health insurance issuers* are responsible for new fees that support research to evaluate and compare health outcomes and the clinical effectiveness of certain medical treatments, services, procedures, and drugs. Fees are due no later than July 31 of the year following the last day of the policy or plan year.

- ☐ **Medical Loss Ratio (MLR) Rebates.** Employers who receive rebates, as a result of insurance companies not meeting specific standards related to how premium dollars are spent, may be responsible for distributing the rebates to eligible plan enrollees. Rebates are due to employer-policyholders by August 1 each year. These rules do not apply to employers who operate self-insured plans.

- ☐ **Simple Cafeteria Plans.** If eligible, consider whether your company could benefit from establishing a simple cafeteria plan, which may be treated as meeting certain IRS nondiscrimination requirements.

- ☐ **Small Business Health Care Tax Credit.** Determine if your company qualifies for the small business health care tax credit. For tax years 2010–2013, the maximum credit is 35% for small business employers. Use Form 8941, *Credit for Small Employer Health Insurance Premiums*, to calculate the credit.

- ☐ **Start Preparing for 2014.** With some of the most significant provisions of Health Care Reform set to take effect in 2014, including the "pay or play" requirements for employers with 50 or more full-time equivalent employees, all employers are encouraged to review their benefit plans with a knowledgeable attorney or trusted benefits advisor to prepare for the changes ahead. Current "pay or play" guidance for employers is available in the proposed rules and related questions and answers.

Be prepared for compliance requirements to change. Stay up-to-date on the latest information regarding Health Care Reform by visiting www.HealthCare.gov.

Last Updated: January 28, 2013

Note: The information and materials herein are provided for general information purposes only and are not intended to constitute legal or other advice or opinions on any specific matters and are not intended to replace the advice of a qualified attorney, plan provider or other professional advisor. This information has been taken from sources believed to be reliable, but there is no guarantee as to its accuracy. In accordance with IRS Circular 230, this communication is not intended or written to be used, and cannot be used as or considered a 'covered opinion' or other written tax advice and should not be relied upon for any purpose other than its intended purpose.

Notice of Copyright and Restrictions on Use: This document is protected under U.S. copyright laws and may not be copied, altered, reproduced, republished, uploaded, posted, or transmitted in any way (electronically or otherwise) except as expressly authorized in writing by HR360. The posting of this document on the Internet is strictly prohibited. **©2013** HR 360, Inc.