



EXTENDING DEPENDENT COVERAGE TO AGE 26 HEALTHCARE REFORM IN AMERICA – Part II

April 2010

*THIS EDITION OF OUR SERIES – **HEALTHCARE REFORM IN AMERICA**- WILL FOCUS ON THE EXTENSION OF DEPENDENT COVERAGE TO AGE 26. WE WILL REVIEW THE NEW REQUIREMENTS, INDICATE WHERE ADDITIONAL REGULATORY GUIDANCE IS NEEDED, AND EXPLAIN HOW THESE PROVISIONS MAY COORDINATE WITH EXTENDED DEPENDENT COVERAGE LAWS ENACTED BY VARIOUS STATES. **A NEW FEATURE** - WE HAVE PROVIDED **QUESTIONS AND ANSWERS** AT THE END OF THIS **INSIGHTS** TO HELP YOU ANSWER YOUR EMPLOYEE'S QUESTIONS ABOUT THE EXTENSION OF COVERAGE FOR YOUNG ADULTS.*

WHAT THE LAW REQUIRES

Effective on the first plan year on and after September 23, 2010 (e.g. January 1, 2011 for calendar-year plans), all fully insured and self-funded plans that cover dependent children will be required to extend coverage to young adult children up to age 26, regardless of student, marital, or disabled status. "Grandfathered plans", those in existence on the date of enactment, March 23, 2010, are not required to extend coverage to young adults who are *eligible to enroll in other employer-sponsored coverage, such as at their own place of employment.*

Insurance carriers are indicating they will offer this coverage to insured clients earlier than is required under the law and are finalizing details. Self-funded plans can adopt this provision earlier than required, as well, but should review the implications with advisors.

On the date of enactment, healthcare benefits for young adult dependents may be provided on a tax-free basis until the end of the calendar year in which the young adult turns age 27. This provision immediately impacts the tax treatment of young adult healthcare benefits under certain fully insured plans (which allow the young adult to be added under family coverage) in states that

have adopted similar extended coverage, and eliminates the need to calculate and report imputed income.

UNANSWERED QUESTIONS

Today there are still many unanswered questions, in particular, how the extension will be implemented. Further guidance will be needed to address the following:

- ◆ Define all eligibility criteria.
- ◆ Does the extension apply to dental and vision plans?
- ◆ Clarify the meaning of a "grandfathered plan".
- ◆ Establish an initial notice and enrollment process.
- ◆ Allow an employee to pay for the young adult coverage with pre-tax dollars through a Section 125 cafeteria plan arrangement. This was not specifically addressed in the legislation.

COORDINATING FEDERAL AND STATE PROVISIONS

There are a number of issues to consider when state law also extends coverage to young adults. Each state has its own rules and requirements, however, in general, the following applies and should be considered when determining how to handle the coordination of state and federal requirements:

- ◆ Federal law applies to fully insured as well as self-funded plans; state law does not apply to self-funded plans.
- ◆ State law may have different eligibility criteria such as requiring a young adult to live in the state in order to qualify for benefits.
- ◆ State law may require the young adult to pay the full cost of coverage (e.g. the single rate). Under federal law, the young adult will be considered a dependent and may be covered on the parent's plan under family coverage.
- ◆ Young adults will be eligible for benefits under federal law until age 26 and may then qualify for state coverage if the plan is fully insured and the maximum age limit is greater than 26.

SEE THE **QUESTIONS & ANSWERS** AT THE END OF THIS **INSIGHTS** FOR MORE INFORMATION

Insights

ADDITIONAL INFORMATION

For specific questions concerning information contained in this *Insights*, please contact your Chernoff Diamond consultant.

Information contained in this *Insights* is not intended to render tax or legal advice. Employers should consult with qualified legal and/or tax counsel for guidance in respect of matters of law, tax and related regulation.

Chernoff Diamond provides comprehensive consulting and administrative services with respect to all forms of employee benefits, risk management and qualified and non-qualified retirement plans.

For additional information about our services please contact us at (516) 683-6100 or via e-mail at mail@chernoffdiamond.com.

Insights

QUESTIONS & ANSWERS ABOUT EXTENDING COVERAGE TO YOUNG ADULTS

Q1 *When will I be able to enroll my adult child under the health plan?*

A1 The new federal law will become effective at the first open enrollment after September 23, 2010. Note - this will apply as early as October 1, 2010 for plan years that begin October 1, January 1, 2011 for calendar-year plans and September 1, 2011 for plans years that begin September 1.

However, we are learning that insurance carriers will make this available earlier than required under federal law, in particular, to help accommodate graduating seniors.

WE WILL KEEP YOU APPRISED OF DEVELOPMENTS AND LET YOU KNOW AS SOON AS POSSIBLE WHEN THIS MAY BE AVAILABLE.

Q2 *What are the young adult requirements?*

A2 The young adult must be under the age of 26. The young adult can qualify for coverage regardless of marital status, student status or disabled status. The law also has a special provision for “grandfathered plans”, a plan that was already in place the day the law was signed (March 23, 2010). Under a grandfathered plan, if a young adult is eligible for other employer-sponsored coverage, for example, at their own job, they may not be eligible to be covered under a grandfathered plan. Because our plan was in place the day the law was signed, our plan may be considered a “grandfathered plan. More guidance from the authorities is needed to clarify the meaning of a grandfathered plan.

Q3 *My daughter is 24 years old, married, and does not live at home. Can she be covered under my plan?*

A3 Yes, as long as all eligibility criteria are met (see Q2) However, her dependents, including her spouse and children will not be eligible for coverage under the plan.

Q4 *Do I have to claim my young adult child as a dependent for tax purposes in order to cover him under the plan?*

A4 No. This is not a requirement.

Q5 *May I enroll my child under the dental and vision plans, as well?*

A5 At this time we are not clear about this. We are awaiting further guidance from the authorities.

Q6 *My adult child has other coverage at his job, but that coverage is expensive and not as good as our plan. May I enroll him in our plan under family coverage?*

A6 Your child may not be eligible to enroll under our plan

because, at this time, we believe our plan is “grandfathered” and therefore, may exclude adult dependents that are eligible for other coverage (see Q2). We need more guidance to clarify our grandfathered status.

Q7 *My child is a part-time student at college. Will she be eligible to enroll under our plan?*

A7 Yes, as long as she meets all federal eligibility criteria, including being under the age of 26.

Q8 *Our state also allows us to enroll young adults on our plan until age 30 (for example) but he must pay the full single rate for coverage on an after-tax basis. My son just graduated from college in January 2010 at the age of 22. How does the new federal law work with the state law?*

A8 Using this simple example:

- At the time your son “aged off” the plan in January, 2010 he could continue his own coverage under the plan (and pay the single rate) as long as all state requirements are met, which for purposes of this example, let’s assume include: being unmarried, must reside in the state, and not be eligible for other group coverage. (If he does, in fact, live out-of-state, he could continue benefits under COBRA).
- Your son will then be allowed to join our plan under family coverage when first eligible as long as he meets all the federal eligibility criteria. He may join at this time even if he did not maintain coverage after he graduated in January, 2010. However, because he is over 19, he would be subject to the plan’s preexisting condition limitation if he had a gap in coverage of more than 63 days.
- All benefits under our plan will be provided on a tax-free basis and you will not be charged any additional income to reflect the value of this coverage.
- At this time you may not be able to pay for the coverage (your contributions) with pre-tax dollars, however, we believe this will be allowed in the near future.
- As long as your son continues to meet the federal eligibility criteria, he can remain on the plan as a dependent until he turns 26.
- When he turns 26 he may be eligible to 1) stay on the plan under state law as long as all of the state law criteria are met, or 2) purchase coverage on a state-based exchange which is scheduled to become effective January 2014, or 3) continue coverage under COBRA.