

Compliance Corner: COBRA Compliance/Eligibility – Answers to Complex Questions

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Recently many situations have come to light involving eligibility for COBRA – actually, the question is eligibility for the health plan. Divorce decrees make employers and employees think they must keep the ex-spouse on the employer's plan.

It is amazing how many people never tell their employer about a divorce because their divorce decree says they must pay for the insurance for the EX. The divorce decree is simply saying who must pay for insurance – it is not saying the employee's employer must allow the ex-spouse to remain on the employer's plan forever. The employer sets the definition of an eligible participant in their plan. No divorce decree or court order can over-ride that criteria.

Recent question –

"If an employee gets a divorce and in the divorce it states he is to pay for the spouse's health insurance while she is a full-time

Health Savings Accounts Slow to Catch on Among Insured

Dallas Morning News, The (KRT)

Open enrollment season is under way at companies, meaning workers are considering changes to their employee benefits for next year.

One option is a health savings account (HSA), which has been touted as a key tool to get consumers to better manage their healthcare dollars and decisions. An HSA, combined with a high-deductible health insurance policy, encourages workers to save money on healthcare and pocket the difference.

But studies have shown that HSAs have been slow to catch on with consumers. A survey by the Kaiser Family Foundation found that only about 4 percent of covered workers are enrolled in such plans in 2006, a rate statistically no different from last year.

"We don't know yet whether workers and employers ultimately will embrace consumer-driven health plans in big numbers, but it certainly hasn't been a tidal wave," said Kaiser foundation vice president Gary Claxton, co-author of the

CONTINUED ON PAGE 2

CONTINUED ON PAGE 3

Compliance Corner: COBRA Compliance/Eligibility – Answers to Complex Questions

– CONTINUED FROM PAGE 1

student even after the divorce is final – can he leave her on as his dependent (under the full-time student status) or does she need to elect the COBRA and he can pay for it?”

This “full-time student status” was a unique quirk – but, it doesn’t change the COBRA eligibility. Let’s look at the Federal laws that could be broken if the employer allowed the ex-spouse on the active coverage just as before the divorce.

COBRA - divorce is a Federal COBRA qualifying event – the spouse must be offered COBRA continuation. The divorce decree doesn’t change this. And, the ex-spouse is eligible for COBRA regardless of the spouse’s “full-time student” status. The ex-spouse may be eligible for COBRA continuation for 36 months.

Even if it takes 4 years to get this education, the ex-spouse will only be eligible for 36 months of COBRA continuation – then they need to find other coverage for the EX to pay for. That divorce decree does NOT say, “the ex-spouse must be allowed to stay on the current employer plan”. It just says, the ex-husband must pay for the ex-wife’s insurance coverage.

The COBRA notice must be sent to the ex-spouse. If they elect COBRA continuation, then the two can arrange how it will be paid. Anyone can pay COBRA premiums – the hospital, the cancer

treatment facility, the new employer, the old employer, the ex-spouse - anyone.

COBRA PREMIUM – Some people say, “just leave the EX on the coverage as is. We already have everything set up for payment.” But, the rate as an active spouse is the dependent rate – the premium is different when they are a COBRA participant. If one person is continuing on COBRA, the COBRA specifies the rate is the one-person rate plus the 2% administrative fee.

125 PLAN – The employer cannot allow the employee to pay premiums for the ex-spouse through the employer’s 125 Plan. Ex-spouses are not on the eligible tax dependent list in the 125 law.

See how many Federal laws are involved. And, you would be shocked to know how many ex-spouses are still on YOUR active coverage.

“I didn’t want my employer to know I had gotten a divorce.”

“I have to pay for her insurance so I just thought I could leave her on.”

We hear it every day. That is theft of insurance benefits. That ex-spouse is not eligible on the Plan as an active dependent.

CONTINUED ON PAGE 3

Compliance Corner: COBRA Compliance/Eligibility – Answers to Complex Questions

– CONTINUED FROM PAGE 2

In one situation, an employee kept their ex-spouse on the coverage for eight years – “She has lupus – she needed the insurance. I just left her on my coverage.” The employee had been at the company for 33 years but, was fired for theft of insurance benefits.

Employers are responsible for confirming everyone on the Plan meets the eligibility criteria for that coverage. Many times employers don’t find out their employee has gotten a divorce until they remarry and want to add the NEW spouse. I see your head nodding in agreement!

It is best that employers give constant reminders of insurance eligibility criteria. And, remind the employees it is their responsibility to keep the employer informed of COBRA qualifying events they may be unaware of – legal separation, divorce, Medicare Entitlement and dependent no longer meets the definition of an eligible dependent.

Allowing an ineligible participant on the Plan is fraud. I have seen carriers cancel not only the ineligible participant’s coverage but, also the entire group plan for fraud.

Employer’s job description – everyone that is eligible has been offered it and everyone that is on it is still eligible. That protects you and your employer! 🔥

Health Savings Accounts Slow to Catch on Among Insured

– CONTINUED FROM PAGE 1

group's 2006 Employer Health Benefits Survey. "When you look at the total costs, the savings from these plans may not be enough to overcome consumer concerns about higher cost sharing."

Health savings accounts, which became available in 2004, are sort of a cross between a flexible healthcare spending account and a 401(k).

As with those accounts, you contribute pretax money. And as with a flex account, you can use the money to pay for most of the costs of healthcare that your insurance doesn't cover.

But unlike with a flex account, you invest the money as you see fit, it grows tax-free, and you can roll it over from year to year, or to a new job.

The main restrictions for contributing to such accounts are that you can't be enrolled in Medicare, you must be enrolled in a health plan with a high deductible, you can't have any other health insurance, and you can contribute only up to the amount of your deductible.

You can use your HSA money to pay for medical expenses up to your deductible or for other expenses that aren't covered. Once you meet the deductible, your health policy will

CONTINUED ON PAGE 4

Health Savings Accounts Slow to Catch on Among Insured

– CONTINUED FROM PAGE 3

cover you for the rest of the year. If you don't meet your deductible, you can roll the extra money over and spend it in the future.

Many experts see this model as the wave of the future for employee benefits. Companies can contribute a lump sum to your HSA and let the high cost of healthcare work to encourage you to reduce your spending.

Better education

But before that happens, workers need to be better-educated about the plans, and the rules need some improvements, studies suggest.

In Dallas-Fort Worth, few large companies have gone to the HSA model, said Marianne Fazen, executive director of the Dallas-Fort Worth Business Group on Health. Instead, they are offering other so-called consumer-driven health plans, such as a health reimbursement account or HRA, as well as preferred-provider organizations and health maintenance organizations.

"The biggest change for the large companies is the high deductible" of an HSA, Ms. Fazen said. "When a company has been offering a low-deductible plan for all these years, it's a pretty big jump for them."

Medium-size companies in Dallas-FW are more likely to offer HSAs, because they feel a sharper sting from rising healthcare costs, she said.

They want to provide health insurance for their employees, "but when the costs have gone so high, you simply can't continue at that level for a midsize company, and for small companies, especially, the HSA does provide that option," Ms. Fazen said.

To make HSAs appealing to workers, employers must do more to explain the accounts and promote them, said Jennifer Murphy, healthcare communications leader at Hewitt Associates, an employee benefits consulting firm.

"Many of the employers are doing great things at enrollment, but then there aren't as many employers who are spending as much time after Jan. 1, when the plan goes into effect," she said. "We just don't have sophisticated consumers in these yet."

Most employees struggle to make the best choices during the open-enrollment period, Ms. Murphy said.

A study by Hewitt found employees' understanding of and satisfaction with

CONTINUED ON PAGE 5

Health Savings Accounts Slow to Catch on Among Insured

– CONTINUED FROM PAGE 4

high-deductible health plans are low among those who participate in them.

Only 30 percent of employees using high-deductible plans with HSAs said they understood and were satisfied with their selection, and more than half said they wouldn't re-enroll next year, Hewitt said.

"As healthcare costs continue to rise, HSAs are great vehicles for helping employees save for future healthcare expenses, but they can be ineffective or confusing to employees if they aren't using them in the right way," Ms. Murphy said.

Advantages

HSAs have several advantages for consumers, said John Goodman, president of the National Center for Policy Analysis, a Dallas think tank.

"It's the ability to manage their own healthcare dollars," said Mr. Goodman, who is credited with creating the HSA. "Under traditional insurance, the only way you get the benefit is to spend your employer's money, but with the health savings account, you gain financially by not spending money."

The use of HSAs could grow with two recent announcements by Wal-Mart Stores Inc.

Starting in January, Wal-Mart's primary health insurance offering for new employees will be a high-deductible health plan with premiums as low as \$11 per pay period in some areas.

After employees are enrolled in Wal-Mart's coverage for a year, they can pair the high-deductible plan with a health savings account, plus a contribution of up to \$2,400 from Wal-Mart.

Because of Wal-Mart's size, its move is "very significant," Mr. Goodman said.

What's more, Wal-Mart's recent announcement that it's expanding its offer of \$4 prescriptions for some generic drugs to Texas will enable consumers to better use HSAs, said Devon Herrick, senior fellow at the National Center for Policy Analysis.

"Wal-Mart gives price transparency," he said. "You would immediately know what the price is. With a drug plan, you have to call the drugstore, you have to ask them how much does this drug cost, and they would ask you who insures you."

There's also legislation in Congress that would make HSAs more attractive by allowing

CONTINUED ON PAGE 6

Health Savings Accounts Slow to Catch on Among Insured



– CONTINUED FROM PAGE 5

consumers to make contributions that would exceed their insurance deductible.

Under current law, you can make tax-deductible contributions to an HSA up to the amount of your deductible in the high-deductible health plan, or up to the limit on HSA contributions, whichever is lower. For 2006, those annual contribution limits are \$2,700 for individual coverage and \$5,450 for family coverage. The amounts are adjusted annually for inflation. 📄

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Milliman Survey Shows Lowest Health Insurance Premium Increase since 1997

PR Newswire

Results from Milliman's fifteenth annual survey of Health Maintenance Organizations (HMOs) and Preferred Provider Organizations (PPOs) indicate a slowing of premium increases. Reported 2006 premiums for the benefit plan provided are up 6% from 2005 for HMOs, the smallest change since 1997. PPO premiums for a standard \$250 deductible benefit plan increased a modest 4% among plans responding in both 2005 and 2006.

Complete results for the Milliman 2006 Group Health Insurance Survey are now available and include premium rates and trends by component, hospital inpatient cost and utilization data, physician reimbursement levels, medical expense ratios, and profit levels. Results are provided by metropolitan area, state, region, and nationwide. HMO and PPO results are shown separately. This year's survey results also include information regarding the implementation of Consumer Driven Health (CDH) products and disease management programs.

Contributing factors to increasing insurance premiums include an aging population, higher costs per service, and increasing utilization of services. Hospital inpatient stays for HMOs have increased to 277 annual days per 1,000 members in the 2006 survey, up from 230 in the 2000 survey. "The aging population could be contributing to this phenomenon," says Doug Proebsting,

co-author of the survey. For plans reporting in 2005 and 2006, HMO and PPO hospital inpatient costs per admission increased about 8% while professional fees increased about 5% for HMOs and 9% for PPOs.

For 2007 renewals, HMOs anticipate premiums to increase 10 to 11% while PPOs anticipate premiums to increase 12 to 13%. However, these anticipated increases are on book or manual rates. Actual rate increases will likely differ due to group experience, contract negotiations, changes in cost sharing, and market conditions.

The survey was sent to the nation's HMOs and fully insured PPOs that serve the commercial large or mid-group employer markets. Over one-third of those surveyed participated. The annual Milliman survey is unique in that it asks HMOs and PPOs to respond to a given set of benefits and demographics. The survey removes three important factors that can skew the results of a typical survey on health costs: differences in benefit design scope, cost sharing levels and member demographics.

Survey results showed that the consumer could lower annual premiums by about \$565 per member per year by increasing the deductible

CONTINUED ON PAGE 8

Milliman Survey Shows Lowest Health Insurance Premium Increase since 1997


– CONTINUED FROM PAGE 7

from \$250 to \$1,000 and could lower annual premiums by \$900 per member per year by increasing the deductible from \$250 to \$2,000. A CDH plan can be an attractive option since a Healthcare Reimbursement Account (HRA) or Health Savings Account (HSA) is usually available to cover the higher deductible if medical expenses occur.

Survey results indicate a vast majority of respondents are either currently offering or will offer a CDH product within the next year. Milliman's analysis shows that ninety-seven percent of respondents to the CDH portion of the survey expect to offer employers a high deductible plan with an integrated employee account, i.e., HRA or HSA. Insurers are about three times more likely, however, to offer spending accounts alongside a PPO plan than an HMO plan.

Though generally available from insurers, a small but increasing number of employers/employees have thus far chosen these products. Among respondents, CDH premium revenue will be 3.6% of all commercial premium revenue in 2006. Respondents expect this amount to increase to 5.1% in 2007. However, both in terms of percentage of total premium and percentage of insurers currently offering HRAs or HSAs, reported growth in CDH products has been slower than respondents predicted in prior years.

The number of plans offering provider quality information and treatment options to their members continues to grow. Seventy-two percent and ninety percent either currently or will provide within the next year provider quality information and treatment option information, respectively. However, those sharing hospital and physician services pricing information has stalled around fifty percent. Access to pricing information (often referred to as price transparency) is the one major component of CDH that has yet to be implemented on a large scale. This is significant since access to pricing information to make informed decisions is an important aspect of CDH.

This year Milliman also explored issues related to disease management. "The results supported our expectation that plans believe disease management programs are more successful in improving patient health than reducing short or long term costs," said Proebsting. The most common programs focus on managing diabetes, asthma, coronary artery/heart disease and congestive heart failure. Maternity, obesity, and diabetes programs are viewed as having the greatest impact on reducing long term future healthcare costs. 

SOURCE Milliman

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More Employees Will See Consumer-Directed Options This Fall, But Enthusiasm Has Cooled Among Employers

PR Newswire


The once-explosive growth of consumer-directed health (CDH) plans has cooled, but will remain strong during this fall's open-enrollment period, according to a new national survey of employee benefits consultants conducted by Inside Consumer-Directed Care (ICDC) newsletter and the International Society of Certified Employee Benefit Specialists (ISCEBS).

A year ago, respondents had higher expectations for CDH implementation among their largest clients. Respondents then predicted 23% of "jumbo" employers (with more than 10,000 employees each) would offer an account-based plan for 2006. That prediction fell short, according to this year's survey results. Respondents said that just 13% of their jumbo clients offered a CDH plan for 2006. They predicted 18% of their largest clients would offer a CDH plan for 2007. CDH plans include either a health reimbursement arrangement (HRA) or a health savings account (HSA).

ISCEBS President Richard Storms, a benefits consultant with Mercer Health and Benefits, says he wasn't completely surprised by this year's more conservative expectations.

"Employers are still interested in CDH plans, but they're not moving ahead at the pace predicted by last year's survey results." Storms suggests that the tempered enthusiasm could be tied to health insurance rate increases, which are slightly lower than they have been in previous years.

"This time last year, a lot of consultants predicted 2006 would be a tipping-point year for account-based plans," adds ICDC Managing Editor Steve Davis. "It looks like we might still be a few years away from that." Davis estimates that about 6.5 million lives are now covered by an account-based health plan. He predicts this number will reach 9 million on Jan. 1.

The second annual survey -- conducted between Sept. 28 and Oct. 17 -- is based on responses from 58 consultants from more than 20 benefits consulting firms, including Aon Consulting, Towers Perrin, Watson Wyatt and Mercer. The respondents collectively represent 6,650 employers. 

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