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Employers Given More Time to Issue Notices Concerning Health Insurance Exchanges - March 1, 2013 Deadline Delayed to Late Summer or Fall

Overview

The Patient Protection and Affordable Care Act ("Healthcare Reform") generally requires employers to issue written notices to employees concerning the health insurance exchange in their state (the "Exchange"). The law requires these notices to be issued by March 1, 2013, but the U.S. Departments of Labor, Health and Human Services, and Treasury (the "Departments"), have advised that this compliance deadline is being delayed.

What Are Employers Required To Do?

Healthcare Reform generally requires employers to provide a notice to employees:

1. Informing the employee of the existence of the Exchange, describing the services provided by the Exchange, and explaining how the employee may contact the Exchange to request assistance;
2. If the employer's share of the total allowed cost of benefits under the employer's group health plan is less than 60%, inform the employee they may be eligible for a premium tax credit under the Internal Revenue Code if the employee purchases health coverage through an Exchange; and
3. Informing the employee that if they purchase health coverage through an Exchange, the employee may lose the employer contribution (if any) toward any group health plan offered by the employer, and explaining that all or a portion of that contribution may be excludable from income for Federal income tax purposes.

The law required these written notices ("Employer Exchange Notices") to be provided no later than March 1, 2013 for each existing employee, and at the time of hiring to each subsequent new employee. However, information concerning the Exchanges is not available yet, and information provided to employees now would not be as useful to employees as it would be closer to the time the Exchanges are opened for enrollment. Moreover, the Departments intend to issue regulations and model notices that are coordinated with their educational efforts and guidance on minimum value, but this has not been done yet. Finally, the Departments want to ensure that employers have adequate time to meet their obligation, in order to help ensure a smooth implementation process. Accordingly, the Departments have indicated that they are delaying the Employer Exchange Notice requirement until late Summer or Fall of 2013, which will coordinate with the open enrollment period for Exchanges. The Departments stated that future guidance on complying with the Employer Exchange Notice requirement is expected to provide flexibility, as well as adequate time to comply.

Conclusion

The delayed implementation of the Employer Exchange Notice requirement is good news for employers, as is the Departments' assurance that additional guidance will be provided well in advance of any new deadline for issuing

Employer Exchange Notices. In the meantime, most employers will be making decisions regarding their group health plan's cost sharing and scope of benefit coverage for the next plan year. We would be happy to work with you as you analyze how Healthcare Reform rules and guidance will affect you.

If you have any employee benefit questions, please contact your regular Butzel Long attorney, a member of the Butzel Long Employee Benefits Practice Group, or the author of this e-mail news alert.

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