Year End Compliance Review: Updates, Reminders, Toolkits, and More Webinar Q&A

Thank you for attending our recent webinar. Slide handouts from our recent presentations can be found on our webinar page: http://www.ebcflex.com/Education/Webinars.aspx. At this time, our free webinars are not pre-approved for outside association CE credits. Upon request to compliance@ebcflex.com, we can provide a certificate of attendance in order for you to pursue the CE credit on your own.

The following questions were asked during the two webinar sessions in October 2019:

Q: Is a benefit summary from an insurance (medical) the same as a SPD?

A: Typically no. The benefit summary provided by the insurance carrier is usually missing key components to be considered a Summary Plan Description (SPD). Examples of items that are missing include: formal plan name, ERISA language, employer's name and address, ERISA plan number, plan year, plan administrator, plan agent for service of legal process, ERISA rights statement, eligibility terms unique to the employer, to name a few.

Q: In order to be in compliance with the law, do we need to provide employees a SPD for all insurance products that they have signed up for including vision, dental, etc.?

A: Each ERISA benefit has a plan document and SPD requirement. You can use a Wrap plan document and SPD to combine more than one ERISA benefit under one ERISA number and use one SPD to communicate plan details and satisfy the Department of Labor requirement.

Q: Can you set up a retiree class and use ICHRA to buy Medicare supplement and have group plan for all others?

A: You would not be able to set up a class to just cover active employees enrolled in Medicare and employees cannot be given the choice between group insurance and the Individual Coverage Health Reimbursement Arrangement (ICHRA). The permissible classes are: full-time/part-time, hourly/salary, geographic location, seasonal employees, and employees in a unit of employees covered by a particular collective bargaining agreement, employees who have not satisfied a maximum 90 day waiting period.

Employee Benefits Corporation

1350 Deming Way, Suite 300
Middleton, WI 53562-4640
P: 800 346 2126 | 608 831 8445
F: 608 831 4790
An employee-owned company
www.ebcflex.com

Q: For 2020 can you offer a health reimbursement arrangement (HRA) plan and a traditional health insurance plan?

A: Yes, you can still offer the traditional health insurance plan along with an HRA for employees enrolled in the group insurance plan. The HRA options in 2020, do not eliminate the HRA options that were available prior to 2020.

Q: Did she say the PCOR fees will be going away? What slide # is that on?

A: For calendar year plans, the last PCOR fee would have been due 7/31/19. Any non-calendar year plans will be required to make their final PCOR fee on 7/31/2020.

Q: Can you please revisit the statement that you can have an HDHP that is not HSA compatible? I'm not sure I got that right.

A: The point I was trying to illustrate is that not all high deductible health plans will meet the parameters to be a health savings account (HSA) qualified plan. For example, the maximum out of pocket limits on an HSA qualified plan for 2020 is $6,900 Single and $13,800 Family and the maximum out of pocket limits on an Affordable Care Act (ACA) plan is $8,150 Single and $16,300 Family. The ACA plan would have an out of pocket limit that is too high.

Q: Do you know if service charges for employees for insurance purposes are included in the amount that is reported on the W-2 code DD box 12

A: The value of health coverage reported in Box 12 of the W-2 would be the COBRA rate less any administrative fees.

Q: Is the DOL actually enforcing lack of SPD requirements?

A: As I indicated on slide 60, there are examples where employers have been assessed penalties for failing to provide a SPD. Typically when an employer is under a DOL audit, or an employee has filed a complaint with the DOL, there would be a request to see the employer's plan document and SPD.

Q: I'm finding that insurance companies find ways to NOT pay for the covered preventative services. Is this common? Example: Preventative colonoscopy not paid for if find a polyp - employee stuck with bill.

A: There are certain preventive care expenses that are mandated as part of the ACA provisions. I cannot speak to how a particular insurance carrier would treat a particular expense.

Employee Benefits Corporation

1350 Deming Way, Suite 300
Middleton, WI 53562-4640
P: 800 346 2126 | 608 831 8445
F: 608 831 4790
An employee-owned company
www.ebcflex.com

Q: If your health plan is fully insured, did you say that nondiscrimination testing is not required?

A: There is an ACA provision that would require nondiscrimination testing on insured health plans beginning in 2011. Early in that year, the IRS issued IRS Notice 2011-1 https://www.irs.gov/pub/irs-drop/n-11-01.pdf delaying enforcement of this provision until a time where the IRS issues guidance on how to perform the testing. To date there has been no release of such guidance.

Q: When employer receives notification from IRS that the electronic 1095 file was received and acknowledge with Errors. When are the corrections due back to the IRS?

A: "Accepted with Errors" means that there are errors in the data contained in the 1095-C schedules, which commonly is a taxpayer identification number (TIN) validation error. It would be important to make a good faith effort to correct these errors as soon as possible or within the timeframe set forth by the IRS. If this error results in a 226J notice from the IRS you typically have 30 days to respond.

Q: Are 1095C forms still required to be filed with the IRS for tax year 2019? I was under the impression that this would not be required since the mandate is no longer in place for 2019.

A: 1095C is use to verify that the employer made an offer of group health plan coverage to at least 95% of their full-time employees and that the coverage met minimum value and affordability standards for purposes of the Employer Shared Responsibility mandate. So although the individual mandate is no longer effective for 2019, the employer mandate still applies. We are awaiting the instructions for 2019 employer reporting to be released by the IRS to see what has changed, but don't expect that this reporting requirement will be eliminated as long as the employer mandate remains in effect.

Q: Can you please repeat the statement that your insurance doesn't have to cover preventive medicine?

A: The new guide provided by the IRS in July permits insurance carriers that provide HSA qualified high deductible health plans (HDHP) to expand low cost or no cost coverage for preventive care related to chronic medical conditions. They provide specific coverages and expenses in the IRS Notice 2019-45. This however is not a mandate that requires insurance carriers to comply. Many carriers may adopt these new items, and the key point made by this notice is that by expanding preventive care for these specific medical conditions, individuals will remain HSA eligible. There are other preventive care expenses that are mandated by the ACA that insurance carriers are required to comply with for example.

Employee Benefits Corporation

1350 Deming Way, Suite 300
Middleton, WI 53562-4640
P: 800 346 2126 | 608 831 8445
F: 608 831 4790
An employee-owned company
www.ebcflex.com

Q: Page 28 - Looking Head - do the notices apply to employers with less than 20 employees?

A: Employer's that sponsor ERISA benefits would be required to distribute the applicable notices regardless of the number of employees.

Q: If we have already closed open enrollment and submitted our elections, how do we handle the FSA increase for 2020 (projected $2,750 as of webinar date)?

A: An employer may elect to re-open open enrollment temporarily to allow for revisions to the elections. That might mean only approaching those that were at the old maximum of $2,700 or notifying all of the employees that had elected the health care flexible spending account (FSA) during open enrollment. Anyone changing their election would submit a revised election in paper form, if any electronic methods of open enrollment are no longer available.

Employee Benefits Corporation

1350 Deming Way, Suite 300
Middleton, WI 53562-4640
P: 800 346 2126 | 608 831 8445
F: 608 831 4790
An employee-owned company
www.ebcflex.com