

New Health Care Reform Developments Impact Summary of Benefits and Coverage and Early Retiree Reimbursement Program

11/21/2011 Norbert F. Kugele

Agencies Delay Implementation Date for Summary of Benefits and Coverage

Back in August, the federal agencies implementing health care reform released proposed regulations describing the new Summary of Benefits and Coverage form (“SBC”) required by the Affordable Care Act. As described in [our earlier bulletin](#), the idea behind the form is to provide certain basic information, in a uniform manner, that will make it easier for employees to understand and compare different health plan coverage options. The proposed regulations called for group health plan sponsors and insurers to begin distributing SBCs by March 23, 2012. But the agencies anticipate that they will revise the form in response to the many comments they have received.

The agencies are now delaying the implementation deadline. Recognizing that the form, once finalized, will take significant time to complete, the agencies have announced that health plans and insurers are not required to distribute the SBCs until the agencies issue final regulations. Moreover, the final regulations will include an implementation date expected to give group health plan sponsors and insurers sufficient time to prepare the SBC.

CMS Will Survey and Audit Employers Receiving Early Retiree Reimbursement Program Funds

For those employers who maintain retiree health plan coverage, the Affordable Care Act included a popular feature that allows employers to be reimbursed for a portion of the medical claims that early retirees incurred after June 1, 2010. The Affordable Care Act created a \$5 billion fund that reimburses 80% of an early retiree's eligible claims between \$15,000 and \$90,000. According to the Centers for Medicare and Medicaid Services (CMS), the program has already distributed \$4.1 billion in funds. CMS is no longer accepting applications to participate in the program, but will continue to process reimbursement requests while funds are available. Even after funds are exhausted, CMS will accept additional requests and, if additional funds become available, will pay the requests in the order received.

As part of the program's application process, employers had to certify that they would use proceeds from the program to reduce or offset increases in health coverage costs. CMS now plans to conduct

surveys of all program participants to determine how employers have used or are planning to use the funds. Although not yet finalized, CMS has [posted the proposed questionnaire and instructions](#) on its web site. The questionnaire seeks information on how the plan sponsor has used the reimbursed funds and the dollar amounts devoted to each use.

CMS also announced that it has recently acquired the services of a program integrity contractor that will conduct audits of a subset of plan sponsors to verify compliance with program rules, including eligibility of early retirees, validity of submitted claims and use of program funds.

If you have any questions about the Summary of Benefits and Coverage, the Early Retiree Reimbursement Program, or any other health care reform issues, please contact a member of Warner's Employee Benefits Practice Group.