

Health and Welfare Plan Year-End Action Items

December 3, 2015

As 2015 draws to a close, there are several health and welfare plan action items to address for 2015 and early 2016. For non-calendar year plans, the specific timing for certain items described below may vary.

- Employer shared responsibility provisions under the Affordable Care Act (ACA):
 - Determine applicable large employer/applicable large employer member status for 2016.
 - Determine whether any changes will be made to the measurement process for 2016, such as a change in method (e.g., monthly versus look-back), changes to period duration if the look-back measurement method is used, or other variations among permissible employee categories under the ACA's employer shared responsibility provisions. Update employer measurement policy as needed.
 - Ensure minimum essential coverage will be offered to at least 95 percent of ACA full-time employees for each month during 2016 to avoid a potential Internal Revenue Code (Code) Section 4980H(a) penalty (projected to be \$2,160 per ACA full-time employee, less the first 30, in 2016).
- Code Sections 6055 and 6056 reporting requirements under the ACA:
 - Complete Forms 1095-C and distribute to applicable employees by February 1, 2016. Also provide to other individuals if Form 1095-C is used in lieu of available alternative Form 1095-B (e.g., self-insured coverage provided to ex-spouse who was never an employee).
 - Consider whether to request an extension for time to distribute forms to individuals (available only for cause).
- Amendments to plan documents, summary plan descriptions, and related material, as necessary:
 - Reflect any changes in eligibility as a result of compliance with the ACA's employer shared responsibility provisions and employee measurement.
 - Reflect any changes in eligibility and/or employee contributions for same-sex spouses or domestic partners after the Supreme Court's decision in *Obergefell v. Hodges*.
 - Determine whether to incorporate additional change in status events to Code Section 125 cafeteria plan:
 - Change in employee status to less than 30 hours per week on average but plan eligibility not lost due to ACA stability period; and/or
 - Employee eligible for special enrollment in ACA Public Insurance Marketplace.

These change in status events may be adopted retroactively to 2014 if adopted by December 31, 2015.

- Determine whether to amend health care FSA to incorporate FSA carryover provision (in lieu of grace period). Amendment must be made by December 31, 2015, to permit carryover from 2015 to 2016.
- Determine whether to amend health care FSA to increase employee contribution limit to \$2,550 (if not already done).

- Ensure non-grandfathered medical plan coverage satisfies the ACA's out-of-pocket maximum limit requirements for 2016.
- Complete and distribute Forms W-2:
 - Ensure Forms W-2 correctly reflect appropriate cost of group health coverage for ACA purposes in Box 12 using Code DD.
 - Ensure Forms W-2 correctly reflect HSA contributions in Box 12 using Code W, if any.
- Distribute Summary Annual Report(s) (assumes Form 5500 extension filed).
- Pay 2015 Transitional Reinsurance Fee: The latest date for a scheduled first installment payment or payment of the total fee is January 15, 2016.

In addition to the items listed above, you should also be aware that additional changes to your health and welfare plans may be necessary as a result of changes made by applicable laws such as the ACA.