

CARES Act Includes Employee Benefits Related Provisions

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Congress has passed the Coronavirus, Aid, Relief, and Economic Security Act (The CARES Act), a \$2 trillion stimulus package containing many provisions designed to bolster the economy during the COVID-19 crisis. The CARES Act also includes several provisions that affect employee benefit plans summarized in this alert.

HDHPs Can Provide First Dollar Coverage for Telehealth Services

Effective immediately, high deductible health plans (HDHPs) can cover telemedicine (and other similar remote care medical services) before participants have met the applicable minimum deductible, without jeopardizing the employee's eligibility to make HSA contributions. This HSA safe harbor expires for plan years beginning 1/1/2022 unless it is extended by future legislation.

Employers with fully-insured plans will need to check with carriers to determine if this coverage will be added to existing HDHPs. Self-insured employers can choose to amend HDHP plans to add this benefit if desired.

Health FSAs, HRAs, and HSAs can Reimburse OTC Medicine

The CARES Act allows Health FSAs, HRAs, and HSAs to reimburse OTC drugs not prescribed by a physician, reversing a ban that was enacted as part of the Affordable Care Act (ACA). The CARES Act also allows menstrual care products to be treated as medical expense that can be reimbursed on a tax-free basis. Plans are not required to allow these reimbursements, so employers may need to amend existing plans to provide these coverages.

COVID-19 Coverage Mandate Expanded

The CARES Act requires plans to cover preventive services or vaccines for COVID-19 on an expedited schedule if and when they become available. The items or services must meet current preventive service requirement and be recommended by the US Preventive Services Task Force (USPSTF) or the CDC. Plans would then need to provide coverage within 15 business days after the recommendation.

DOL Can Delay ERISA Filing Requirements

The CARES Act gives the DOL authority to delay ERISA related filing requirements, such as the Form 5500 and Form M-1. It is expected that the DOL will make announcements of any applicable delays soon.

Employer Can Pay for Employee Student Loans Tax Free

Employers can provide up to \$5,250 tax-free to employees to pay for student loans. These payments are allowed only through the end of 2020.

Summary

The pace in which this legislation was passed guarantees that there will be many questions about details of various provision of The CARES Act. Due to the condensed timeframes for effective dates, employers should expect the regulatory agencies to issue informal guidance in the form of memos and FAQs rather following than traditional regulatory process.

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