Benefits BULLETIN

2nd Quarter 2019

Benefits Tips Brought to You by Benefit Controls of South Carolina, Inc.

2020's Proposed Notice of Benefit and Payment Parameters

Early this year, the Department of Health and Human Services (HHS) published its proposed Notice of Benefit and Payment Parameters for 2020. This proposed rule describes benefit and payment parameters under the Affordable Care Act (ACA) that would be applicable for the 2020 benefit year.

What's Included in the Proposed Rule for 2020?

Proposed standards included in the rule relate to:

- Annual cost-sharing limitations
- The individual mandate's affordability exemption
- Direct enrollment in the Exchanges
- Special enrollment periods in the Exchanges

Cost-sharing Limitations

The ACA requires the out-of-pocket maximum to be updated annually based on the percent increase in average premiums per person for health insurance coverage. Under the proposed rule, the out-of-pocket maximum would increase for 2020 to $8,200 for self-only coverage and $16,400 for family coverage.

Affordability Exemption

Despite the repeal of the individual mandate taking effect in 2019, the proposed rule notes that individuals may still need to seek this exemption for 2019 and future years. Under the proposed rule, the required contribution percentage would increase in 2020 by 0.09 percent. The proposed rule provides that, for 2020, an individual would be exempt from the individual mandate penalty if he or she must pay more than 8.39 percent of his or her household income for minimum essential coverage.

Changes to Exchange Enrollment

The 2020 proposed rule would enhance direct enrollment through the Exchanges. Specifically, the proposed rule would expand opportunities for individuals to directly enroll in Exchange coverage by enrolling through the websites of certain third parties—called direct enrollment entities—rather than through HealthCare.gov. The proposed rule would implement several changes intended to streamline the regulatory requirements applicable to these direct enrollment entities.

Additionally, the proposed rule would establish a new special enrollment period for off-Exchange enrollees who experience a decrease in household income and are determined to be eligible for the premium tax credit through the Exchange. This would allow enrollees to enroll in a more affordable Exchange plan when their household income decreases midyear.

For more information on the proposed rule, contact Benefit Controls of South Carolina, Inc..

Compliance Strategies for Workplace Wellness

Workplace wellness programs have many benefits, but employers must carefully design them to comply with several federal laws. Recent developments have created new compliance challenges for 2019.

It is important to keep the following in mind when designing your workplace wellness program:

- Only individuals who participate in the GHP are eligible for the wellness plan.
- The GHP's summary plan description should describe the wellness plan.
- Individuals who elect COBRA for the GHP are eligible to continue the wellness plan. As such, it should be included in GHP COBRA notices.
- The wellness program collects personal health information that must be protected.

For more information on wellness compliance, contact us today and request a copy of the Workplace Wellness Plan Rules - Compliance for

Benefit Controls COMPANIES

The DOL Increased Civil Penalty Amounts for 2019

In early 2019, the Department of Labor (DOL) increased the civil penalty amounts that may be imposed on employers under the following federal laws:

- The Fair Labor Standards Act (FLSA)
- The Employee Retirement Income Security Act (ERISA)
- The Family and Medical Leave Act (FMLA)
- The Occupational Safety and Health Act (OSH Act)

To maintain their deterrent effect, the DOL is required to adjust these penalties for inflation, no later than Jan. 15 of each year. The DOL's civil penalty adjustments for 2019 were delayed due to the federal government shutdown.

These increased amounts apply to civil penalties that are assessed after Jan. 23, 2019.

Amounts Related to Wage and Hour Violations
Here are a few of the updated penalties for 2019:

- Repeated or willful violations of minimum wage or overtime requirements (FLSA): Up to $2,014 for each violation
- Violations of child labor laws: Up to $12,845 for each employee subject to the violation
- Willful failure to post FMLA general notice: Up to $173 for each separate offense

Amounts Related to Employee Benefits Violations
Here are a few of the updated penalties for 2019:

- Failure to file an annual report (Form 5500) with the DOL (unless a filing exemption applies): Up to $2,194 per day
- Failure of a multiple employer welfare arrangement (MEWA) to file an annual report (Form M-1) with the DOL: Up to $1,597 per day
- Failure to provide summary of benefits and coverage (SBC): Up to $1,156 per failure

In early 2019, the Department of Labor (DOL) increased the civil penalty amounts that may be imposed on employers under various federal laws.

Amounts Related to Employee Safety Violations
Here are a few of the updated penalties for 2019:

- Violation of posting requirement: Up to $13,260 for each violation
- Other-than-serious violation: Up to $13,260 for each violation
- Willful violation: Between $9,472 and $132,598 per violation

What's Next for Employers?
Employers should become familiar with the new penalty amounts and review their pay practices, benefit plan administration and safety protocols to ensure compliance with federal requirements.

The SOTU and the Employee Benefits Market

On Tuesday, Feb. 5, 2019, President Donald Trump delivered the 2019 State of the Union Address (SOTU). The SOTU is an annual message delivered by the president to a joint session of Congress at the beginning of each year. Historically, the SOTU is meant to be uplifting and is designed to serve as an olive branch to bring a divided Congress together.

At this year's SOTU, President Trump discussed issues that have the potential to impact the employee benefits industry, including pre-existing conditions, lower prescription drug prices and nationwide paid family leave.

Pre-existing Condition Protection
In a departure from 2018 Department of Justice actions, Trump announced in the address that people who have pre-existing conditions should receive protections. If the administration holds true to this goal, they will likely find cross-aisle support, as pre-existing condition patient protection was a key campaign issue in the midterm elections.

Lower Prescription Drug Prices
One of President Trump's key campaign promises was to make prescription drugs more affordable for Americans. In the SOTU, he called on Congress to prioritize lowering both health care and prescription drug costs.

The administration has already taken action to ban gag clauses and also require hospitals to post standard procedure pricing information online. Most recently, they proposed a rule that would eliminate certain drug rebates for pharmacy benefit managers and potentially increase savings for consumers.

With health care and prescription drug costs being a pain point for the American public, any steps made by the government are a step in the right direction. However, how the steps that are taken pan out will have to be seen.

Nationwide Paid Family Leave
President Trump called again for federal paid family leave in the SOTU. Public pressure continues to mount over the issue of paid family leave, and states are proposing and passing their own versions of this type of leave. While the specifics of the president's plan remain unknown, including how it would be funded, this issue would have cross-aisle support.

Conclusion
It's important to remember that the SOTU is just a speech, and what actions will come out of it will remain to be seen.

The issues discussed above are just a few of the issues the president addressed in his SOTU. These initiatives will potentially pair with the immigration, trade and tax reforms that have shaped the way that employers do business in the Trump administration era. For more information, contact Benefit Controls of South Carolina, Inc. today.