Coverage for Dependents Up to Age 26 in The Patient Protection and Affordable Care Act of 2010 (PPACA)

The Patient Protection and Affordable Care Act of 2010 (PPACA) requires that group health plans that offer dependent coverage of children now must provide that coverage to children up to age 26. This provision of the new health care reform law is effective for plan years beginning on or after September 23, 2010. For a group health plan that operates on a calendar year basis, employers must provide coverage to older children effective January 1, 2011.

Eligibility of Children Up To Age 26

For purposes of eligibility, a plan may not define dependent coverage of a child other than in terms of a relationship between a child and the participant. A plan may not deny or restrict coverage for a child who has not attained age 26 based on a child's financial dependency, residency, marriage status, student status, employment or a combination of these factors. Also, employers do not need to validate a child's age but can rely on the employee's representation of age for this purpose. These new requirements ease the burden in determining the eligibility of dependent children and the income tax exclusion.

THIS ACT ALSO AFFECTS YOUR SECTION 125 CAFETERIA PLAN

Health Flexible Spending Accounts

Parents may also pay for out-of-pocket medical expenses for older children through their health flexible spending accounts (HFSA). Any contributions to HFSAs for older children will be tax-free as well. Employees may start seeking reimbursement for expenses incurred by their older children immediately. Employers may also allow employees to change their annual HFSA election amount during the plan year, but there are ramifications to doing this. Further details are provided below.

Changes to HFSA Elections Mid Year

Under the new law and the Treasury Notice 2010-38, the IRS will be amending Regulations 1.125(4)(c) to include a change in status event affecting older children up to the age of 26. If the IRS amends these regulations, changes to HFSA elections are allowable as long as the changes are consistent with the change in status events. For example, if an employee adds a child due to the increased age limit, he or she can only increase their HFSA election, not decrease it.

Plan Amendments

Cafeteria plans may need to be amended to reflect the change in dependent definition. Required amendments should be completed on or before December 31, 2010 and may be retroactively effective to the first date in 2010 when employees were permitted to make pre-tax salary reduction contributions (or seek reimbursement) for older children (but not before March 30, 2010). Secure Benefits Systems is aware of this and once clarification and proper wording is provided, we will be providing you will an amendment to your Plan.

HRA Plans

The same rules that apply to an employee's child up to age 26 for purposes of HFSA's also apply to HRA plans as well.