

Extension of Coverage for Adult Dependent Children

For plan years beginning on or after September 23, 2010, group health plans and health insurance issuers that provide dependent health coverage must to continue that coverage for adult children, regardless of marital status, until age 26. The child is not required to live with the parent or be a full time student or to be a tax dependent.

For grandfathered plans, coverage is not required for dependent adult children who have access to coverage from their own employer. This mandatory change in coverage for adult children would not apply to plans that provide “excepted benefits” such as limited scope dental and vision benefits (provided under a separate policy).

The IRS issued Notice 2010-38, which contains guidance on the tax treatment of health care coverage for an employee's adult children. The IRS clarified that the coverage under the health plan and the reimbursements for medical care for a child who has not reached 27 as of the end of the tax year are excluded from gross income under tax code, including a child who is not the employee's dependent within the meaning set forth under tax code. The IRS also clarified that employees with children who will not have reached age 27 by the end of 2010 qualify for the tax benefit from March 30 forward if the children are already covered under the employer's plan or are added to the plan at any time.

Responding to questions regarding why the IRS notice dealt with coverage of children up to age 27 when the Act's dependent coverage provision only requires coverage through age 26, an IRS representative said that Congress's intent was to assure that if a plan decided it would make more sense to continue to cover the child through the end of the year, the employees would not have a partial year of income inclusion.

The Notice also clarified that employers with cafeteria plans may immediately allow employees to begin making pretax contributions to pay for coverage for their adult children. Contrary to the general rule, employers do not need to modify their cafeteria plans before allowing workers to begin making pretax contributions. However, a retroactive amendment to a cafeteria plan to cover such children must be made before Jan. 1, 2011, and must be effective retroactively to the first date in 2010 when workers are allowed to make pretax contributions to cover adult children.

A cafeteria plan may allow an employee to revoke an election and make a new election during a period of coverage only under specific circumstances—such as a change in status event—and the current rules do not allow for election changes for children under 27 who are not dependents of the employee. However the IRS intends to amend the regulations retroactively to March 30, 2010 to include in change of status events affecting nondependent children under 27 becoming newly eligible for coverage or continuing to be eligible for coverage beyond the date to child would have otherwise lost coverage.

Action:

Group health plans providing coverage for dependents will have to be revised to provide that coverage will continue until the child turns age 26. Plans must eliminate any coverage requirements relating to a child's full-time student status, tax dependent status and marital status (subject to the exception for grandfathered plans that are not required to provide coverage to adult children eligible to enroll in another employer health plan).

Employers should revise their cafeteria plans in order to allow employees to pay for coverage for adult children with pre-tax dollars and/or to allow employees to change their election to add or continue coverage for adult children.

Advance notice of these changes must be announced to employees.

While it appears not many employers are doing so, employers could make these changes before the beginning of the next plan year. Employers should consider this option.