

REGULATIONS

New Rules Call for Fast Action By Wellness Plans

New rules recently announced by the federal government will significantly affect many employers' health and wellness plans for 2010, and HR executives should take immediate action to ensure compliance, several law firms advise.

The Centers for Medicare and Medicaid and the IRS this month released new rules to implement parts of the Genetic Information Nondiscrimination Act of 2008 (GINA). This act prohibits health plans from excluding participants from plans based on genetic information and the gathering of such information for underwriting purposes.

The collection of data refers to information about any genetic tests or services the participant has received and – most significantly – any family disorders, according to the law firm Jones Day. Plans may not use genetic information when “changing



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HEALTH CARE REFORM UPDATE

Democrats Work on Final Bill to Present to Senate Floor

Democratic leaders are crafting a formal health care reform bill to present to the full Senate following a critical vote by the Senate Finance Committee and a favorable government report.



The committee voted 14-9 in favor of a health care bill sponsored by Sen. Max Baucus (D-Mont.) on Oct. 13. Prior to voting, the committee dropped two proposals that would have created a government insurance program to compete with private insurers. However, Sen. Harry Reid (D-Nev.), the Senate majority leader, announced in late October that the formal bill will include a public option. States that did not wish to participate could opt out, Reid said.

Support for the bill within the Democratic ranks is still up in the air, according to an Associated Press report. A number of moderate Democrats have been outspoken against a public option in the past. In the days following Reid's announcement, none of the moderate Democrats indicated that they had changed their minds. Reid would need all Democrats in the Senate to support the bill in order to block a planned Republican filibuster.

In the House, Speaker Nancy Pelosi (D-Calif.) continued to press her party to include a public option in any health care proposal.

The Finance Committee plan gained support after the Congressional Budget Office reported that the proposal would cost \$829 billion over a decade and would actually reduce the federal budget deficit by \$81 billion during those 10 years. However, America's Health Insurance Plans (AHIP) criticized the Senate bill, saying it would drive up premiums because it lacks real enforcement of an individual mandate. ■

HSA OPTIONS

Employees Discover New Uses for HSAs, But Future Remains Uncertain

DESPITE THE DIFFICULT economy and the uncertain path of health care reform, employees are finding good reasons to enroll in health savings accounts (HSAs) and increase their contributions, new research shows.

Employees enrolled in HSAs are increasingly using the accounts for long-term investing goals, and that behavior continues to fuel contributions to the accounts despite the difficult economy, according to new research by Canopy Financial.

The average single HSA account-holder in the first quarter of 2009 was 42 years old and contributed \$116 monthly, up from the average monthly deposit of \$111 from the previous quarter, according to the most recent Canopy report. The average family account-holder (at 45 years old) contributed an average of \$239 monthly, up from \$206 in the fourth quarter of 2008.

“The most significant thing we have noticed is that even in a recession economy, both employers and consumers continue to make contributions to and invest in [consumer-directed options such as HSAs],” said Canopy CEO Vik Kashyap.

Kashyap added that employees are beginning to see these accounts as long-term investment vehicles, with contributions “that in many ways

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deductibles or other cost-sharing mechanisms, or providing discounts, rebates, payments in kind, or other premium [incentives] in return for activities such as completing a health risk assessment or participating in a wellness program," the rules state.

According to the law firm Spencer Fane Britt & Browne, that means programs with health risk assessments cannot ask for family medical history if the individual has not yet enrolled in the plan or before re-enrollment, nor can they ask those questions after enrollment if the plan rewards participants for taking part in the health plan assessment (or penalizing them if they do not).

"Now that we are in the thick of annual enrollment season, employers and insurers may need to turn on a dime and delete from their [health risk assessments] any questions concerning family medical history," according to Kenneth A. Mason of Spencer Fane. "They may even need to add language to open-ended questions stating that, in answering those questions, individuals should not provide any genetic information (including family medical history)."

Mason notes that programs can offer a financial incentive to complete a health risk assessment as long as it does not contain questions on family history. On the other hand, assessments that occur after enrollment and do not include financial incentives can ask questions on family history, Mason said. ■

.....Bulletin Briefs.....

◆ **FOURTH-QUARTER FREEZE:** Businesses expect little movement on the hiring front during the fourth quarter of this year, according to a poll by Manpower Inc. More than two-thirds of the respondents said they see no change in their hiring plans through the end of the year. Only 12 percent expect an increase in hiring, and 14 percent anticipate staff reductions.

◆ **BETTER SHOPPERS:** A new CIGNA study found employees at small businesses (two to 250 workers) were more likely to look for ways to save money on prescription drugs when compared to large-company workers. The survey also revealed that men (43 percent) are more likely than women (30 percent) to not ask about generic alternatives.

mimic those made to 401(k)s in which people invest a little bit each month into these accounts in an effort to accumulate long-term wealth/funds for long-term medical needs."

High-deductible plans paired with HSAs or health reimbursement arrangements (HRAs) have gained in popularity among employees, with more workers now covered under those plans than by traditional HMO plans, according to United Benefit Advisors' 2009 Health Plan Survey.

As HSAs gain ground in popularity and use, other research suggests that certain features – specifically debit cards – can make these accounts even more attractive to employees.

A survey by Evolution Benefits found that two-thirds of the nearly 900 respondents said the debit card option influenced their decision to sign up for a plan with an HSA. Nearly three-quarters said it made their HSA easier to use.

Kashyap said his company expects high-deductible plans and HSAs to continue to grow in the coming years. However, their future hinges on the details of health care reform legislation now being debated in Congress.

To be enrolled in an HSA, an employee must also be enrolled in a high-deductible health plan. Current proposals in Congress, however, would require all health plans to meet a certain criteria to qualify as adequate coverage. And not all high-deductible plans – in particular those often used by small businesses – will reach that mark, experts say. Some Congressional proposals would require plans to cover at least 70 percent of health expenses – a higher rate than many high-deductible plans. ■

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