

## HEALTH CARE REFORM UPDATE

# E-Legislative Update

Employee Benefits  
May 17, 2010



## New Guidance Issued for "Adult Child" Mandate of PPACA

### PPACA "Adult Child" Expanded Coverage Requirement

The "adult child" expanded coverage provision of the PPACA requires that employer-sponsored group health plans offering dependent coverage must extend that coverage to any child of a covered employee until the child turns age 26. Eligibility requirements (e.g., marital status, student status, residency, financial support, tax dependent status, employment status and/or eligibility for other coverage), may NOT be imposed. The extended coverage must be made available for new plans or renewals beginning on or after September 23, 2010.

The new guidance requires group health plans to provide each eligible adult child with a special 30-day enrollment opportunity beginning no later than the first day of the plan year that begins on or after September 23, 2010. Coverage for such election must begin on the first day of that plan year. If a parent is not already enrolled, the plan must allow him/her to do so, and must allow the parent to elect a change in benefit plan options (e.g., from PPO to HMO).

### New IRS Guidance

As a result of expanded dependent coverage requirement, health coverage provided for an employee's children *under age 27* is now generally tax-free to the employee, effective March 30, 2010. Employers that were imputing income to employees for coverage of the employees' children, as defined below, should stop doing so, effective March 30, 2010. Income must continue to be imputed for periods prior to March 30, 2010. For other eligible dependents, employers should continue to impute income to employees.

NOTE: The new federal mandate may not be entirely consistent with coverage and eligibility (e.g., unmarried, residency, financial dependency, etc.) and other requirements of [Illinois Public Act 95-0958](#), which became effective in Illinois on June 1, 2009, or with other state dependent coverage mandates. *Since state tax laws do not necessarily follow federal tax law, employers may need to continue to impute income for purposes of state and local taxes.*

Employees who have children who will not have reached age 27 by the end of the year, became eligible for the new tax benefit beginning March 30, 2010, if the children were already covered under the employer's plan or are added to the employer's plan any time after March 30, 2010. For this purpose, the IRS defines a child as a son, daughter, stepchild, adopted child or eligible foster child.

This new age-27 standard replaces the lower age limits that applied under prior tax law, as well as the requirement that a child generally qualify as a dependent for tax purposes. The expanded health care tax benefit applies to various workplace and retiree health plans. It also applies to self-employed individuals who qualify for the self-employed health insurance deduction on their federal income tax return.

Employers may permit employees to make pre-tax salary reduction contributions immediately, to pay for the expanded dependent benefit. This applies even if the salary reduction plan has not yet been amended to cover these individuals. Plan sponsors have until the end of 2010 to amend their plan language to incorporate this change.

IRS [Notice 2010-38](#) explains these changes and provides further guidance to employers, employees, health insurers and other interested taxpayers.

### Treasury Department Explanation

Treasury Department deputy benefits tax counsel, Helen Morrison, has explained that, “The tax rule provides that as long as the child was not age 26 prior to the end of the year, that the coverage would be excluded.” Even if the child turns 26 and the plan is not required to cover the child beyond that date, the income exclusion rules would continue to apply if the plan chooses to continue the coverage through the rest of the year, she said.

When asked why the IRS notice dealt with coverage of children up to age 27 when the coverage provision under the health care reform law only requires coverage through age 26, Morrison 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.

### Additional Resources

[Other health care provisions](#) can be found on the [IRS Web site](#). In addition, the Department of Labor's Employee Benefits Security Administration (EBSA) has posted the following information on the extension of coverage for adult children under the PPACA:

- [the regulation](#)
- [the fact sheet](#)
- [the FAQs](#)

\*This article is intended as an overview and should not be viewed or relied upon as legal or tax advice. Please consult your attorney or tax professional if you have any questions about this legislation.

*Sources: IRS Newswire, and the EBSA*

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