

Now that we know the outcome of the presidential election, one other thing is certain as well: Obamacare will move forward. And there are provisions in the law that employers, employees and individuals need to prepare for starting in January.

Flexible Spending Account Contribution Limits

Healthcare Flexible Spending Account (FSA) contributions can't exceed \$2,500 per year. This limit will go up in taxable years beginning after December 31, 2013, based on increases to the consumer price index (CPI). Employers should amend their plan documents to reflect this change.

Additional Medicare Tax

The employee portion of the hospital insurance tax part of FICA will increase by 0.9% on wages that exceed a threshold amount for tax years beginning after 12/31/2012. For joint returns or a surviving spouse, the additional tax will be imposed on the combined wages of the taxpayer and the taxpayer's spouse above \$250,000. The threshold amount for a married individual filing a separate return is \$125,000 and is \$200,000 in any other case.

Medicare Tax on Unearned Income

An additional 3.8% Medicare payroll tax will be imposed on unearned income for high income individuals (\$200,000 for an individual return; \$250,000 for joint filers). Interest on tax-exempt bonds, veteran benefits, and gain from the sale of a principal residence that are excluded from gross income are not considered net investment income for purposes of the additional tax, nor are qualified retirement plan and IRA contributions.

Employer Retiree Subsidy Coverage

Employers currently receive a subsidy and are able to claim a tax deduction for providing retiree prescription drug ; however, in 2013, employers will no longer be able to get the full benefit of both. Instead, the amount allowable as a deduction will be reduced by the amount of the federal subsidy received.

Notice of Exchange

By March 1, 2013, employers will be required to provide all new hires and current employees written notice about the state health benefit exchanges and the consequences if an employee decides to purchase a qualified health plan through one in lieu of employer-sponsored coverage. While the exchanges must be operational by January 1, 2014, since several states haven't even started planning for them, it remains to be seen whether the Department of Health & Human Services will grant extensions.

State-Based Insurance Exchanges

State health exchanges will be set up to facilitate the purchase of qualified health plans (QHPs) and provide for a Small Business Health Options Program (SHOP) to assist small employers in enrolling their employees in QHPs. Beginning in 2017, states may allow employers of any size to offer coverage through an exchange.

Employer Mandate

Certain large employers (50 or more employees) may be subject to penalties for failing to offer healthcare coverage for all full-time employees if any full-time employee qualifies for the federal subsidy to purchase health insurance through an exchange. As part of the mandate, employers will need to determine full-time equivalent status. Employees who were considered part-time may now be deemed full-time.

Automatic Enrollment

An employer with more than 200 full-time employees that offers employees enrollment in one or more health benefit plans must automatically enroll new full-time employees in one of those plans (subject to any permissible waiting period) and continue the enrollment of current employees.

Waiting Periods

An employer can't apply a waiting period for coverage that exceeds more than 90 days. This prohibition will apply to group health plans, grandfathered health plans and insurers.

Pre-Existing Conditions

A plan may not impose any pre-existing condition exclusion to deny enrollment or specific benefits. This prohibition will apply whether or not an individual has prior creditable coverage or is a late enrollee.

Guaranteed Availability of Coverage

For plan years beginning on or after January 1, 2014, each health insurance issuer that offers health insurance coverage in the individual or group market (regardless of whether the coverage is offered in the large or small group market) will be required to accept every employer and individual in the state that applies for such coverage.

Wellness Programs

The wellness program incentive limit will increase from 20% to 30% of total cost of coverage and may be increased to 50% if deemed appropriate.

Cost Sharing Requirements

Cost sharing will be limited for group health plans. Annual out-of-pocket limits will not be able to exceed Health Savings Account (HSA) limits and deductibles will not be able to

exceed \$2,000 for single and \$4,000 for family coverage (new plans).

Coverage for Individuals in Approved Clinical Trials

Group health plans providing coverage to qualified individuals may not deny an individual's participation in an approved clinical trial, deny (or limit or impose additional conditions on) coverage of routine patient costs for items and services furnished in connection with the trial, or discriminate against the individual based on participation in the trial.