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Consumer Driven Health Plans Fit with Healthcare Reform

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When Health Savings Accounts (HSAs) were created in 2004 and another growth engine for consumer driven health plans was fueled, no one envisioned such sweeping changes to the U.S. healthcare system as those passed into law in March 2010. Throughout the healthcare debate, there was speculation that HSAs, FSAs (flexible spending accounts) and HRAs (health reimbursement arrangements) would soon be voted out of existence by Congress.

Not so. Today, most industry insiders believe that despite some changes in contribution limits and restrictions in how funds can be used, the popularity of these healthcare accounts that are associated with consumer driven health plans will continue. Reform that still allows consumers to play a role in how they pay for their healthcare and encourages them to make good healthcare choices is a good thing for employers and employees.

Healthcare Reform Changes Impacting HSAs

Let's first look at HSAs and how healthcare reform impacts that type of account. The new healthcare reform law includes a change in the definition of a "qualified medical expense" and therefore a change in how funds in an HSA can be used. This change is also true for FSAs and HRAs. Beginning in January 2011, expenses incurred for over-the-counter medications will no longer be eligible for payment or reimbursement from any of these healthcare accounts. However, the law still allows over-the-counter medicines for which the patient has a doctor's prescription, as well as insulin, to be reimbursed from these accounts.

The only other provision in the new law directly impacting HSAs is that the tax penalty on HSA withdrawals that are not used for qualified medical expenses will be increased from the current 10 percent to 20 percent. These provisions will go into effect in 2011 as well.

The IRS, which controls allowable HSA contribution limits, has already announced that it will not change the amounts that individuals and families with high deductible health plans can contribute to their HSAs in 2011. The contribution limits for 2011 are the same as for 2010. Individuals may contribute \$3,050 to their HSA. Families may contribute \$6,150. Catch-up contributions for individuals 55 and older remain at \$1,000 annually.

These are all positive signs that HSAs will continue to provide an opportunity for employers to reduce healthcare costs by offering a tax-advantaged benefit to employees in conjunction with their high deductible health plan. Employees continue to benefit from the tax advantages and portability of HSAs (the money is theirs to keep even if they change jobs).

A legal wild card may be in the changes proposed to all health insurance policies and how they affect high deductible health plans that currently make people eligible to contribute to HSAs. Some of the impact may not be known until regulations implementing the final provisions are written.

The healthcare reform law sets new requirements for all insurance policies, including high deductible plans. For example, all insurance policies will be required to provide first dollar coverage for preventive care services. In addition, the preventive services must be covered without any cost sharing (e.g., copayments) or application of any deductibles. While high deductible plans are currently allowed to provide first dollar coverage of preventive care services, and most do, in the future all high deductible plans will be required to do so. These provisions will go into effect in 2014.

The U.S. Preventive Services Task Force and the Secretary of Health and Human Services will define the scope of preventive care services in the future. This could create a potential challenge for high deductible plans to the extent that the preventive services prescribed by these entities conflict with current IRS guidance on what constitutes "preventive care" for HSA purposes. More political wrangling will likely ensue as the implementation of the healthcare reform law takes shape.

Healthcare Reform Changes Impacting FSAs

In addition to the change in definition of “qualified medical expenses” to exclude over-the-counter medications discussed above, the new healthcare reform law imposes a new annual limit on contributions made by employees to flexible spending accounts (FSAs) for healthcare. The legislation limits contributions to no more than \$2,500 annually (currently set by employers with no federally imposed limit). The limit is indexed to inflation for future years. The effective date is 2013.

Despite this change, industry insiders expect FSAs to continue to grow because the advantages outweigh these new restrictions. And the healthcare reform law introduced a new type of FSA called a Simple Flex or Simple Cafeteria Plan that does not require discrimination testing for small businesses with less than 100 employees.

Healthcare Reform Changes Impacting Most Healthcare Plans and Accounts

By now you get the theme that as with HSAs and FSAs, HRAs (health reimbursement arrangements) are also impacted by the new definition of “qualified medical expenses” excluding over-the-counter medications except for insulin and those for which the patient has a prescription.

The new law also imposes an excise tax of 40 percent on employer-sponsored coverage that has a benefit value in excess of \$10,200 for single coverage and \$27,500 for family coverage (indexed annually). The benefit value of employer-sponsored coverage would include the value of the group health plan and contributions to employees’ FSAs, HRAs, and HSAs. This tax would be imposed on insurance companies, including self-insured plans and plans sold in the group market, and plan administrators. However, this provision does not go into effect until 2018.

Another new requirement for all insurance policies is that they provide a minimum actuarial value for the benefits covered (estimated to be at least 60 percent). However, the details of how the “actuarial value” is defined and whether it would include employer and individual contributions to an HSA is still unclear. Including the contributions in the calculation of a plan actuarial value would make it easier for more high deductible health plans to meet the minimum actuarial value requirement.

Another highlight of the new law includes a requirement that all insurance plans include limits on out-of-pocket expenses using the current law limits for HSAs (i.e., \$5,950 for individual coverage and \$11,900 for family coverage in 2010) and adjusted annually for inflation. This goes into effect in 2014.

Despite these proposed changes, the fundamental benefits of HSAs, HRAs and FSAs are still intact – the opportunity for consumers to save for medical expenses and fund their needs today and in the future. Accounts to finance healthcare needs meet all of the eight principles for reform outlined by President Obama in his mandate to Congress:

- Protect families’ financial health
- Make health coverage affordable
- Aim for universality
- Provide portability of coverage
- Guarantee choice
- Invest in prevention and wellness
- Improve patient safety and quality care
- Maintain long-term fiscal sustainability

Chris Bettner, EVP of Business Development for Sterling HSA, is a founding member of the company’s executive team and has over 25 years of experience in healthcare sales and management with health insurance carriers. Prior to joining Sterling, Chris was Vice President of Sales for Blue Shield of California. She held similar positions at Lifeguard, FHP, Independence Blue Cross and MetLife. Chris is also a national spokesperson on consumer driven healthcare plans and accounts. For more information, visit www.sterlinghsa.com or find us on Facebook.