McGraw Wentworth

REFORM Update

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Expansion of Covered Preventive Care Services

The federal health care reform legislation included a mandate for health plans to cover specific preventive care services at 100%, with no required copayments or participant cost-sharing. As identified by the initial guidance, these services include:

- Evidence-based services rated "A" or "B" by U.S. Preventive Services Task Force
- Immunizations recommended by the CDC's Advisory Committee on Immunization Practices
- Evidence-informed preventive care and screenings for infants, children, and adolescents as found in the comprehensive guidelines supported by the Health Resources and Services Administration
- Preventive care and screenings for women as described in the comprehensive guidelines supported by the Health Resources and Service Administration
- Breast cancer screening, mammography and prevention services as currently recommended by the U.S. Preventive Services Task Force (excluding the November 2009 recommendations)

This requirement was effective as of the first day of the first plan year following September 23, 2010. (Grandfathered plans have the option of delaying the effective date until grandfathered status is lost.) The original regulations were addressed in *Reform Update* 12, found at http://www.mcwent.com/Reform_Update/Reform_Update_12.pdf.

However, the preamble to this initial guidance expressed concern that the recommendations for covered preventive care services for women did not adequately reflect their health needs. As a result, Health Resources and Services Administration was charged with developing additional guidelines, which are addressed in an amendment recently issued by the Departments (Department of Treasury, Department of Labor and the Department of Health and Human Services). These guidelines require group health plans to cover the following newly recommended preventive services without cost-sharing, as of the first day of the first plan year beginning on or after August 1, 2012:

- Well-woman visits
- Screenings for gestational diabetes
- Human papillomavirus (HPV) DNA testing for woman aged 30 or older
- Sexually-transmitted infection counseling, and human immunodeficiency virus (HIV) screening and counseling

- FDA-approved contraceptive methods and contraceptive counseling
- Breastfeeding support, supplies and counseling
- Domestic violence screening and counseling

A more detailed list of these services, including recommended frequency limits, can be found at http://www.hrsa.gov/womensguidelines/.

While not directly addressed in the recent amendment, the initial guidance does allow plans to use reasonable medical management practices to define the nature of the covered services as they relate to preventive care services coverage. For example, there are a number of generic and brand-name oral contraceptives available. In general, the brand-name oral contraceptives are significantly more expensive. Employers could structure their plans to cover only generic oral contraceptives, thus requiring employees to pay the difference in cost if a brand-name option is selected.

It is important to note that this is the first federal law to prompt widespread coverage of contraceptives, a benefit which some employers have historically chosen not to cover. The Departments did recognize that certain religious employers do not cover contraceptives because doing so would conflict with their religious beliefs. In response, the Departments included a religious exemption to this amendment, which will apply to group health plans maintained by religious employers and to insurance carriers (only in respect to the coverage they provide to religious employers).

A religious employer is defined as an organization that meets the following requirements:

- The inculcation of religious values is the purpose of the organization.
- The organization primarily employs persons who share the religious tenets of the organization.
- The organization serves primarily persons who share the religious tenets of the organization.
- The organization is a non-profit organization as described in Section 6033(a)(1) and Section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986, as amended.

The religious exemption generally will refer to churches and associations of churches. It will not be available to businesses that choose not to cover oral contraceptives today because of the personal religious beliefs of the owners.

Many employers already cover some or all of these preventive services. Your organization should check with your insurance carrier or TPA to assess what changes may be needed to comply with this amendment. Once the coverage changes are identified, cost for those changes can be determined. The good news is that employers have time to comply – changes for calendar-year plans need to be made by January 1, 2013.

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