McGraw Wentworth

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In This Issue

In this sixth McGraw Wentworth Special Alert for 2011, we will review Michigan's Publicly Funded Health Insurance Contribution Act. This Act will place limits on public employer funding of health benefits in Michigan.

Public employers will have the option to adopt hard dollar cap limits or percent cost-share limits.

We welcome your comments and suggestions regarding this issue of our Special Alert. For more information on this article, please contact your Account Manager or visit the McGraw Wentworth web site at www.mcgrawwentworth.com.

"Michigan's Publicly Funded Health Insurance Contribution Act"

On September 24, 2011, Governor Snyder signed into law Michigan's Publicly Funded Health Insurance Contribution Act. The bill will place limits on what public employers can pay toward employees' health care benefits, and will be effective for coverage years beginning on or after January 1, 2012.

For the purposes of this Act, a public employer is defined as:

- The state government;
- A local unit of government or political subdivision of this state;
- Any intergovernmental, metropolitan, or local department, agency or authority or other political subdivision;
- A school district, a public school academy, or an intermediate school district; or
- A community college, junior college or an institution of higher learning.

This Act gives public employers a choice of two options for capping the employer contributions for health care benefits:

1. **Hard Dollar Cap Limits**: This default option limits the dollar amounts public employers can spend on their employees' health benefits for 2012:

   a) $5,500 for single coverage

   b) $11,000 for individual and spouse coverage

   c) $15,000 for family coverage

   This option calculates the employer limits in aggregate, and is the sum of the number of single electors multiplied by $5,500, the number of individual and spouse electors multiplied by $11,000 and the number of family electors multiplied by $15,000. Once the aggregated limit on funding is calculated, the employer can allocate those dollars among employees as deemed appropriate. For example, the public employer could create an

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income-based contribution strategy where lower-income employees pay a lower contribution than higher-income employees. However, the employer would have to ensure that the strategy implemented limits employer contributions to at or below the calculated aggregated dollar amount.

In October of each year, the state treasurer will increase the annual dollar limits by the medical care component of the United States Consumer Price Index for the most recent 12-month period for which data is available.

2. **80/20 Cost-Share**: This option allows public employers to limit the dollars spent on employee health benefits to simply 80% of the cost. Again, the limit is calculated on an aggregated basis, and the employer can designate a contribution strategy that differs from a straight 20% cost-share for the employee. However, the employer's total aggregated cost can't be more than 80% of the anticipated cost for the plan year. (Note: This test appears to be prospective, without any requirement to reconcile actual results to the projected estimates for cost-share.) The only exception applies to elected officials, who are required to pay 20% or more of the expected health care cost.

   The designated official could select this option for state employees in Michigan. However, for other public employers, a majority vote of the employer's governing body is required.

For both the options, the contribution limits apply to employer contributions for medical plan premiums, to any copay or deductible reimbursements made to employees, and to any contributions to a health saving account, health reimbursement arrangement, medical flexible spending account or a similar type of reimbursement account sponsored by the employer. Employee-paid amounts are not applied to the contribution limits, which includes copays, deductibles and contributions to a flexible spending account or a health savings account.

It is not clear if an employer contribution to a stand-alone dental or vision plan should be included when calculating the aggregated limits.

In addition, please note the following:

- The employer contribution limits will not apply to employees currently covered under a collective bargaining agreement if the contribution schedule in the agreement is inconsistent with these requirements. However, the requirements will apply to these employees at the point when the agreement expires, even if it is extended. Further, a collective bargaining agreement or contract executed on or after September 15, 2011 cannot include terms inconsistent with the hard dollar cap or 80/20 options. If a public employer has collectively bargained employees that this contribution limit **<u>does not</u>** apply to, those employees should not be used to calculate the aggregate limit employers are permitted to pay for employee health benefits.
- A public employer is authorized to deduct the employees' contributions for health care coverage from the employees' or elected officials' pay. A public employer can condition eligibility for the health care plan on an employee's or elected official's authorization to permit the required deductions. A local unit of government could exempt itself from the requirements of this act for the next succeeding year by a two-thirds vote of its governing body. Another two-thirds vote of the governing body would be required to extend the exemption to a new year. An exemption would not be permitted for a city with a mayor who is both the chief executive and the chief administrator unless the mayor also approves the

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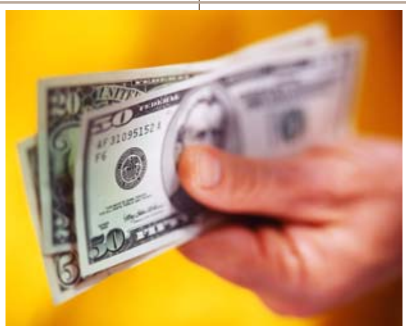
exemption. An exemption would not be permitted for a county with a county executive who is both the chief executive and chief administrator unless the county executive also approves the exemption.

- This Act does not apply to health care benefits provided to retirees.

If a public employer fails to comply with the requirements of this Act, then the public employer would have to permit the state treasurer to reduce each Economic Vitality Incentive Program payment (for cities, villages and townships) by 10%. In addition, the Department of Education would assess the public employer a penalty equal to 10% of each payment for any funds for which the public employer qualified under the State School Aid Act during the period of non-compliance.



Public employers need to determine if they receive or will be eligible to receive any of the funding that will be cut as a result of non-compliance. For example, only certain cities, villages and townships are eligible for the Economic Vitality Incentive Program (EVIP) payments. EVIP is a relatively new funding program and not all cities, villages and townships will be able to meet qualification for EVIP. If an entity does not qualify for EVIP, the penalty is basically non-existent. Relatively few cities, villages and townships actually qualify for EVIP.

The same thought applies to school districts. Determine if your school district qualifies for funding under the State School Aid Act to determine if non-compliance penalties have impact.

Public employers need to determine if penalties will apply. They also should consider potential political implications. While a penalty may not apply, a public employer may face political implications from not adopting the cost caps or 80%/20% cost split with employees.

Since this Act was just recently signed into law, the State of Michigan will likely release more details on the mechanics so employers can better understand how to comply.

If you have any questions, please contact your McGraw Wentworth Account Director. MW

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