

Heard on the Net

Compiled by Bill Robinson, DCAHU Communications Chair

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California Governor Signs Flurry Of Health Laws

Surprise medical bill protections for consumers and new painkiller prescribing requirements for doctors are among measures signed by Gov. Jerry Brown.

Everything You Wanted To Know About Your Health Plan (But Were Afraid To Ask)

A new online database created by the Department of Managed Health Care can help consumers size up and compare insurance plans.

California 'Followed The Blueprint' Of The Health Law And Is Scoring Key Successes

California health officials took deliberate steps — such as expanding Medicaid — to ensure the Affordable Care Act changes were successful in their state. "What has been lost in all the rhetoric and the politics is that the system can work," says Dr. J. Mario Molina, chief executive of Molina Healthcare Inc, an insurer that has done well under the law

The Unpredictable Individual Health Insurance Market

"The future of the Marketplace and how individual health insurance options will trend is anything but predictable. This brief provides a timely look at recent market developments with state-by-state membership comparisons and competitor insights.... Insurers collectively lost almost \$6 billion in the segment last year. On an aggregate basis, individual business summed to a net loss in 41 states plus the District of Columbia. The state of Texas generated the largest total deficit, with plans reporting a combined net loss of \$717 million."

Go All the Way with HSA: Everything HDHP/HSA You Need to Know (PDF)

57 presentation slides. Topics: What are the requirements for a plan to meet HDHP status? Which individuals are eligible to make or receive HSA contributions? What are the forms of disqualifying coverage that prevent HSA eligibility? What are the contribution limit rules for HSA-eligible individuals? How do the rules apply for individuals who gain or lose HSA eligibility mid-year? What tax reporting requirements apply to HSAs? How does HSA eligibility interact with Health FSA and HRA coverage? How and when can employers correct mistaken HSA contributions?

Democrats Use Obamacare Crisis to Revive 'Public Option' Push

"A public option -- or insurance plan offered by the government -- had been written into early versions of the bill but failed to make the final cut in the law signed by Obama in March 2010. But with many states seeing private insurers exit Obamacare markets amid concerns over cost and other factors, Democrats see a silver lining to what critics are calling another Obamacare crisis -- a reason to bring the option back."

Remember The 'Public Option'? Insurance Commissioner Wants To Try It In California

California Insurance Commissioner Dave Jones says a publicly run health plan would bolster competition in the state. But some question whether it would lower premiums.

Hitch Keeps Many High-Deductible Plans from Covering Chronic Care Up Front

"High-deductible plans that are set up to link to health savings accounts can only cover preventive services like vaccines and mammograms until patients buy enough services on their own to pay down their deductible. A bipartisan bill was introduced in Congress in July that would allow high-deductible plans that can link to health savings accounts (HSA) to cover care for chronic conditions like diabetes and heart disease before plan members have met their deductibles."

Will Prop. 61 Drive Prescription Drug Prices Up Or Down?

A large number of undecided voters casts uncertainty over Prop. 61's fate. Only 16 percent of Californians polled say they'll vote no on the initiative to curb high drug costs, but 34 percent said they are undecided. The California Drug Price Relief Act would require the state to pay no more for prescription drugs than the Department of Veterans Affairs pays for the same medication. ... Proponents say the measure would save California taxpayers about \$5.7 billion over 10 years. But DiCamillo points to cautionary words in Proposition 61's official ballot summary that say the amount of potential

savings is unknown, in part because drug companies may decide to hike prices to make up for the lost discounts if the measure becomes law.

Will Making Good on Billions of Dollars Due the Health Plans Solve Obamacare's Exchange Problems?

"The administration apparently thinks it can use an obscure and bottomless 'Judgement Fund' that is used to fund any legal liabilities the federal government incurs because of law suits -- a number of insurers who didn't get paid have sued.... But the risk corridor reinsurance program will end at the end of this year by statute. There can't be such relief in 2017 and years beyond without the Congress and President agreeing to extend the reinsurance program."

House Energy and Commerce Committee Letter to HHS on Risk Corridors Program

"During the joint hearing, U.S. Rep. Morgan Griffith asked Mr. Slavitt if CMS takes the position that insurance plans are entitled to be made whole on risk corridors payments, even if there is no congressional appropriation to do so. Mr. Slavitt responded under oath: 'Yes, it is an obligation of the federal government.' ... Since Congress acted twice to protect taxpayer dollars by prohibiting the use of federal funds to make up for any shortfall in risk corridors payments, the Committee is concerned about the Administration's intent to use any federal funds to settle the suits brought by the insurance companies."

Medicare Advantage Premiums Remain Stable in 2017; Beneficiaries Have Saved Over \$23.5 Billion on Prescription Drugs

"CMS estimates that the average Medicare Advantage monthly premium will decrease by \$1.19 (about 4 percent) in 2017, from \$32.59 on average in 2016 to \$31.40. This would be 13 percent lower than the average Medicare Advantage premium prior to passage of the ACA.... Since the enactment of the ACA ... more than 11 million seniors and people with disabilities have received savings and discounts in the coverage gap of over \$23.5 billion on prescription drugs, an average of \$2,127 per beneficiary."

Five Agent Guidelines for Open Enrollment Communications

"[1] Develop a plan and start early.... [2] Consider what has worked/not worked in the past.... [3] Do not underestimate the value of professional writing and design.... [4] Focus on the open enrollment process only.... [5] Take advantage of new technology for the 'wow' factor."

DOL Permits Additional ACA Marketplace Information as Part of COBRA Election Notice (PDF)

"DOL **clarified in an FAQ** that plans may provide their qualified beneficiaries with more information on ACA marketplace coverage than the current COBRA model election notice contains. This information could explain how to get help with marketplace enrollment, the availability of financial assistance, and/or any other aspect of marketplace coverage that could help qualified beneficiaries choose between COBRA and marketplace alternatives."

New ACA Rules for HRAs, Flex Credits and Opt-Out Payments

"Although the rules in **Notice 2015-87** generally apply for plan years beginning on or after December 16, 2015, under transition relief, many of the new rules will take effect for plan years beginning on or after January 1, 2017. Final regulations regarding opt-out payments will likely be issued later this year ... In planning for next year, employers and plan sponsors that include any of these features in their health plans should review plan documents and operations for compliance with the new requirements, several of which are explained in this article."

ACA Employer Compliance: Changes in 2017 Looming

"In addition to implementation of new regulations, employers entering the second year of compliance with ACA reporting requirements won't have some of the good faith and transitional relief that was available for 2015 reporting."

New ACA Marketplace Notices to Employers Require Action

"This article provides an overview of this new chapter in the ACA's implementation, the nature of the new Marketplace notices being sent to employers, why an employer may want to appeal a determination, how to file an appeal, the relationship between this process and the IRS process for the assessment of employer shared responsibility penalties, and how to reduce the risk of liability for retaliation claims by employees purchasing Marketplace coverage."

ACA Reporting: Earlier Deadlines and the End of Transition Relief

"For the 2015 reporting year, the IRS extended the deadlines and gave employers a few extra months to provide these forms to their employees and to file them with the IRS. However, this transition relief was not extended to the 2017 deadlines for the 2016 reporting year. As a result, reporting deadlines for filings in 2017 are months earlier as compared to 2016."

How to Respond When ACA Electronic Reporting Triggers Notification of an Incorrect TIN

"Employers should prepare for mismatch notifications and take care not to run afoul of discrimination laws. Importantly, employers should not automatically assume that the employees whose information generates mismatches are not authorized to work in the United States."

IRS Issues Draft Forms for 2016 ACA Reporting (PDF)

"The IRS expects to release final 2016 forms and instructions by the end of the year -- in time for the next reporting cycle in early 2017.... The IRS has made only minor changes to the forms, including adding two new 'Offer of Coverage' codes for use on Form 1095-C. The draft instructions also included some helpful clarifications."

Electronic Distribution of Health and Welfare Benefits Documents: Five Steps to Getting It Right in the ACA Age

7 pages. "Identify the documents to be distributed electronically, and whether any elections will be electronic ... Evaluate potential notice recipients ... Prepare an electronic distribution policy ... Collect consents (where necessary) ... Keep good records."

The Look Back Measurement Method: Part 1 :Full-Time Employees

"Every employer adopting the look back measurement method must document its specific dates and timeframes and incorporate that document into its SPD.... Once an employer has a system in place that accurately tracks its employees' hours of service the next step is to classify an employee as a full-time employee, a part-time employee, a variable hour employee, a seasonal employee, or an ongoing employee. Different rules apply to each employee classification."

The Look Back Measurement Method: Part 2: Part-Time, Variable Hour, and Seasonal Employees

"The employer will look at the following factors to determine if an employee should be classified as a part-time, a variable hour, or a full-time employee: [1] Whether the employee is replacing an employee who was or was not working 30 hours per week; [2] The extent to which employees in the same or comparable positions are or are not working 30 hours per week; [3] Whether the job was advertised, or otherwise communicated to the employee or otherwise documented (for example, through a contract or job description), as requiring hours of service that would average 30 or more hours of service per week or less than 30 hours of service per week ... Under no circumstances can the employer take into account the likelihood that the employee may terminate employment before the end of the initial measurement period when classifying an employee."

The Look Back Measurement Method: Part 3: Ongoing Employees

"An ongoing employee is an employee who has been employed for at least one standard measurement period.... An ongoing employee's status is solely determined by the standard measurement period unless there is an initial measurement period ... [T]he standard measurement period is typically the same for all ongoing employees as opposed to the initial measurement period which is unique to each individual employee, if applicable, depending on the employee's start date."

Schedule J of the Proposed Form 5500 Means Increase in Data Collection and Preparation Costs

"If the proposed revisions to the Form 5500 are accepted, Schedule J will be a new addition to the Form 5500 Schedules for group health plans covered by Title I of ERISA. The amount of information requested is staggering. Schedule J will have to be filed by all health & welfare plans; the less than 100 participant exception goes away.... The Schedule J will provide information regarding contributions, claims, benefit structure and compliance information."

Proposed Form 5500 Changes and Implications for H&W Plans

(Excellent PPT Slide Show to use with your affected employer clients)

50 presentation slides. "Last round of changes was effective in 2009.... The proposed changes would be effective beginning with 2019 plan year reporting. No corresponding revised forms/schedules have been provided. Comment deadline extended to 12/5/16. Stated goals for the changes: [1] Modernize financial statements and investment information. [2] Update reporting requirements for service provider fee and expense information. [3] Require Form 5500 reporting by all group health plans covered by ERISA Title I. [4] Improve compliance and oversight."

Final Instructions to Forms 1094-C and 1095-C Released: Key Takeaways

"The final instructions include more concise language when discussing the information return and payee statement penalties.... The IRS makes it clear ... that if an employer elects to use substitute Forms and file using paper with the IRS, the Forms must be printed in landscape format.... The biggest change to the Forms 1094-C and 1095-C is an employer will no longer be able to use the good faith efforts standard to protect itself from filing information returns or payee statements with inaccurate or incorrect information.... No change will be more burdensome than the tighter filing deadline."

Text of 2016 Instructions for IRS Forms 1094-C and 1095-C (PDF) - IRS Document

19 pages. "Employers with 50 or more full-time employees (including full-time equivalent employees) in the previous year use Forms 1094-C and 1095-C to report the information required under sections 6055 and 6056 about offers of health coverage and enrollment in health coverage for their employees. Form 1094-C must be used to report to the IRS

summary information for each ALE Member and to transmit Forms 1095-C to the IRS. Form 1095-C is used to report information about each employee to the IRS and to the employee."

Text of 2016 IRS Form 1095-B and Instructions for Recipient (PDF)

"This Form 1095-B provides information needed to report on your income tax return that you, your spouse (if you file a joint return), and individuals you claim as dependents had qualifying health coverage (referred to as 'minimum essential coverage') for some or all months during the year. Individuals who don't have minimum essential coverage and don't qualify for an exemption from this requirement may be liable for the individual shared responsibility payment."

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