



BlueCross BlueShield of South Carolina  
BlueChoice HealthPlan of South Carolina

## Health Care Reform — Bulletin # 13

February 11, 2011

### 2011 Health Care Reform Update

Summarized below are a few provisions of the health care reform law that have 2011 effective dates, as well as their implementation status. While this list is not inclusive of all provisions, it contains items that may be of particular interest to employer groups. As always, we encourage you to visit [www.healthcare.gov](http://www.healthcare.gov) for more information and further updates.

#### Small Business Tax Credit

The first phase of the small business tax credit takes effect in 2011. This gives qualified small employers a tax credit of up to 35 percent of the employer contribution to purchase health coverage for employees for tax years beginning in 2010 through 2013. Tax-exempt small employers may be eligible for a tax credit of up to 25 percent. BlueCross and BlueChoice HealthPlan provide a small business tax calculator to help businesses and organizations estimate their potential savings on our websites' home pages or directly at [www.BlueSCTaxCredit.com](http://www.BlueSCTaxCredit.com).

#### HSA/FSA/MSA/MRA Changes

Starting January 1, 2011, the health care reform law tightened the definition of “qualified medical expense” to exclude the reimbursement of over-the-counter drugs without a doctor’s prescription. The law also increased the tax for withdrawals from HSAs, MRAs, FSAs and Archer MSAs for non-qualified medical expenses:

- The penalty for distributions from HSAs not used for qualified medical expenses will increase from 10 percent to 20 percent.
- The penalty for distributions from MSAs not used for qualified medical expenses will increase from 15 percent to 20 percent.

For more information, you may want to review IRS Publication 969, which you can find at <http://www.irs.gov/pub/irs-pdf/p969.pdf>.

#### Prohibition on Discrimination in Favor of Highly Compensated Individuals

The health care reform law enacted last year applies nondiscrimination requirements (Section 105(h) of the federal tax code) to fully insured, non-grandfathered group plans. The requirements prohibit group health plans from establishing eligibility rules for coverage or benefits that discriminate in favor of higher wage employees. These requirements have been in place for self-insured groups since 1980. The requirements for fully insured, non-grandfathered groups were to be effective for plan years beginning on or after September 23, 2010; however, on December 22, 2010, the IRS issued new guidance which

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delays these requirements until further regulatory guidance clarifies some of the ambiguities in the law. You can find this guidance at <http://www.irs.gov/pub/irs-drop/n-11-01.pdf>. You can also review the tax code requirements at [http://www.law.cornell.edu/uscode/26/usc\\_sec\\_26\\_00000105----000-.html](http://www.law.cornell.edu/uscode/26/usc_sec_26_00000105----000-.html).

### **W-2 Reporting**

While the health care reform law included a provision that requires employers to report the value of health insurance coverage to the IRS on their employees' W-2 forms, the Department of Labor later clarified that this provision is optional for employers in 2011. You can read more about this at <http://www.irs.gov/newsroom/article/0,,id=228881,00.html>.

### **Cafeteria Plan Changes**

The health care reform law included a provision for certain small employers' cafeteria plans to qualify as simple cafeteria plans beginning January 1, 2011. Under this provision, certain small employers can offer tax-free benefits to their employees without having to satisfy applicable nondiscrimination requirements for a cafeteria plan so long as the plan satisfies certain requirements related to eligibility, participation and contribution. However, no further guidance on implementing this provision has been released.

### **1099 Form Submission to IRS**

A provision in the health care reform law requires that employers submit to the IRS a 1099 form for every individual and business to whom they made total payments of more than \$600 for goods. This particular provision is not set to take effect until January 1, 2012, and no further guidance has been released on it. There is, however, a bill currently in Congress to repeal it.

### **Auto Enrollment**

There is a provision in the health care reform law requiring employers with more than 200 full-time employees to automatically enroll new full-time employees in the employer's health plan and continue the enrollment of current employees. However, the Department of Labor released an FAQ on December 22, 2010 that clarified that compliance with this provision is not required until the rule-making is complete, which is expected by 2014. You can read this FAQ at <http://www.dol.gov/ebsa/pdf/faq-aca5.pdf>.

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This bulletin is part of a series of bulletins we are publishing as we gather information about the health care reform law enacted March 23, 2010. To access all of the bulletins released so far, please visit our websites (SouthCarolinaBlues.com or BlueChoiceSC.com). Click on the appropriate tab (Members, Agents, Benefits Coordinators/Group Administrators or Providers); then click on the "Health Care Reform" link to view the list of the bulletins.

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