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Labor & Employment Alert
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Patient Protection and Affordable Care Act Requirements Remain in Place Following United States Supreme Court Decision

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Following the landmark decision of the United States Supreme Court upholding the constitutionality of the Patient Protection and Affordable Care Act ("PPACA"), commonly known as the Federal Health Care Reform Act or Obamacare, the federal government will move forward with putting into effect the PPACA's provisions. Employers, plans, and individuals will have to comply not only with the provisions already in effect but additional requirements as time progresses.

Plans have already implemented changes, such as providing coverage up to age 26, removal of lifetime limits and increases in annual limits. In **2013** and **2014**, some of the most important of the PPACA's requirements loom.

2012-2013 Changes

Health Care Cost Reporting; Summary of Benefits and Coverage; Flexible Spending Account Cap

- For tax year **2012**, many employers are required to include the aggregate cost of the employer's group health care plan on employee W-2 Forms. Employers who participate in multiemployer plans and employers who issued fewer than 250 W-2 Forms in the preceding year are exempted from this requirement.

- Plans are required to create a Summary of Benefits and Coverage ("SBC"). The SBC is required to be no longer than 4 pages (front and back) and is intended to give participants a clear statement of the benefits available to them. The government has created a template that it is requiring plans to use to comply with the SBC requirement. This provision is effective for the first plan year beginning on or after **September 23, 2012**, but plans will have to be sure to have the SBC prepared for the beginning of the next open enrollment beginning after that date.

- Starting with the next plan year beginning on or after **January 1, 2013**, Flexible Spending Accounts ("FSA") will be required to have a $2,500 annual limit.

2014 Changes

Employer and Individual Mandates; Annual Limit Prohibition; Automatic Enrollment; Health Benefit Exchanges

- In **2014**, the employer and individual mandate provisions of the PPACA go into effect.
  - The employer mandate provides for penalties of up to $2,000 per full-time employee, excluding the first 30 full time employees, on employers with more than 50 employees who either do not offer health coverage or who have full-time employees who receive a premium tax credit. A full time employee is one who works 30 or more hours per week. The penalties are determined as follows:
    - If an employer does not offer minimum essential coverage and one or more full time employees receive a premium tax credit, the penalty is $2,000 per full time employee with the first 30 full time employees excluded. So, an employer with 100 full time employees that does not offer insurance would pay $140,000 (70 x $2,000).
    - If an employer offers minimum essential coverage but one or more full time employees receive a premium tax credit, then the penalty is $3,000 per employee who receives the premium credit with the maximum penalty not exceeding $2,000 per full time employee, excluding the first 30 full time employees. Therefore, if an employer with 100 full time employees offers minimum essential coverage but has 5 full time employees receive a credit, then employer would pay $15,000 (5 x $3,000). The maximum penalty for that employer would be $140,000 (70 x $2,000).
  - The individual mandate requires individuals to have qualifying health coverage or be subject to a tax penalty. Premium tax credits will be available to subsidize coverage for those up to 400% of the federal poverty level. Qualifying coverage

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will require an "essential health benefits" package. It is anticipated that more information may be forthcoming on how essential health benefits will be defined and how they will be reconciled with the Massachusetts Minimum Creditable Coverage requirements.

- Annual limits on coverage will be prohibited beginning in **2014**.

- Beginning in **2014**, Employers will be required to enroll new employees in the group health plan automatically, while giving them notice and the opportunity to opt out of coverage.

- Also in **2014**, health benefit exchanges are scheduled to come on line in each state. Some states, such as Massachusetts and Utah, have already established these exchanges, which are intended to allow individuals and small businesses the ability to locate and purchase affordable health care plans.

2018 Change

Cadillac Tax

- In **2018**, the PPACA will impose the so-called Cadillac tax on high value plans. For 2018, the tax would amount to 40% of the annual health plan value over $10,200 for single coverage or $27,500 for family coverage in 2018, with the amounts being adjusted in subsequent years.

Employers and plans should be working on compliance with upcoming requirements now in order to be prepared when the requirements go into effect. We will continue to keep you informed as the government releases additional guidance on the upcoming requirements.

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If you have any questions or concerns with regard to the implementation of the Act, please contact Katherine A. Hesse, Brian P. Fox or the attorney assigned to your account.

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