



Benefit Trends

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Health Care Reform – Special Edition

Health Care Reform: W-2 Reporting Requirements

LEGISLATIVE BRIEF

June 3, 2010

This memorandum is the eighth installment in our effort to address the critical and imminent changes brought about by the Patient Protection and Affordable Care Act ([H.R. 3590](#); Reform Bill) and the Health Care and Education and Affordability Reconciliation Act ([H.R. 4872](#); Reconciliation Bill), collectively referred to as the Health Care Reform Law.

No New personal Income Taxes, Yet

Apparently, there is a widely circulated email including an erroneous conclusion that W-2s for the 2011 Tax Year will include the value of an employee's health coverage as additional income! The email is just "flat out wrong." We are writing this update to set the record straight.

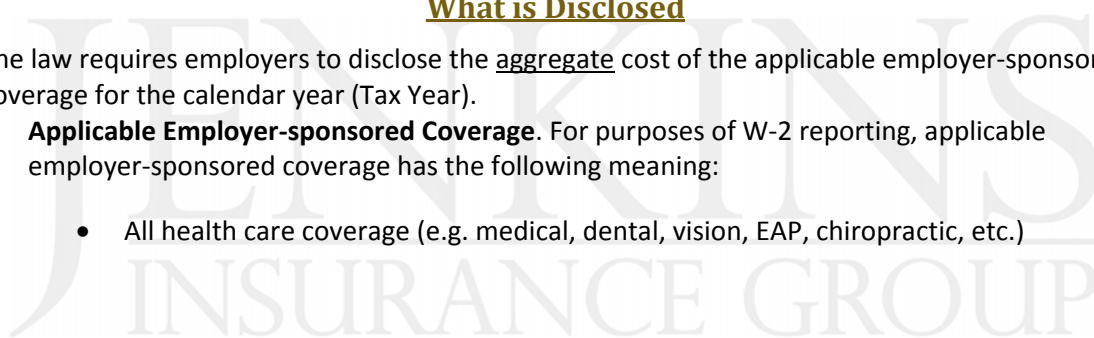
Informational Purposes Only

Section 9002(a) of the Reform Bill (H.R. 3590) will require employers to disclose the value of health coverage on the W-2 for tax years beginning in 2011 for employees participating in health plan coverage. The W-2 will contain a separate box similar to the box for disclosure of pre-tax contributions. The taxable compensation reported on the W-2 does not include amounts specified in these boxes. The 2011 amount will show on the W-2 issued in January 2012.

What is Disclosed

The law requires employers to disclose the aggregate cost of the applicable employer-sponsored coverage for the calendar year (Tax Year).

1. **Applicable Employer-sponsored Coverage.** For purposes of W-2 reporting, applicable employer-sponsored coverage has the following meaning:
 - All health care coverage (e.g. medical, dental, vision, EAP, chiropractic, etc.)



- Whether insured or self-insured
 - Whether partially or fully paid for by the employer or employee
 - Excluding IRC Section 125 salary reduction contributions made to Health Care Spending Accounts, Long Term Care (such as the Unum products), Aflac-type target benefits (e.g. cancer/specific disease, hospital indemnity, etc.), or employer contributions to Health Savings Accounts or Archer medical Savings Accounts.
2. Governmental Entities. The same rules apply! Applicable employer-sponsored coverage includes coverage under a group health plan (as shown above) established and maintained by the U.S. government, the government of any state or its political subdivisions, or by any agency or instrumentality of such government.
 3. Self-employed Individuals. For self-employed individuals (i.e. treated as employee under IRC Section 401(c)(i)) health coverage under any group health plan will be treated as “applicable employer-sponsored coverage.”
 4. Determining the Amount. The law itself (Section 9002(a)) says in part “the aggregate cost (determined under rules similar to the rules of Section 4980B(f)(4)...” Section 4980B provides rules for determining applicable COBRA premium. A strict reading of this provision would imply that the employer must calculate the cost of coverage for each participating employee (e.g. single coverage, HMO option, for 6 months in the case of a new employee recently eligible for coverage). This would appear to create a significant administrative burden for the employer. On the other hand, does the employer take the total cost of the applicable employer-sponsored coverage for the Tax Year and divide it equally by the number of W-2s issued. Hopefully we will see regulations clarifying the amount to be reported.

Future Taxes

For Tax Years beginning in 2018, the law will implement a 40% excise tax on the insurer/self-funded health plan which provides benefits, which, in the aggregate, exceed \$10,200 annually for single coverage and \$27,500 for family coverage. The tax will be levied on the plan. It will not be levied on individuals, at least not in the form of a “tax”.

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