Industry Notes, April 2014

- **It's time to step off the insurance escalator!**

No matter who pays the bill (taxpayers, employers, citizens), the fact is health insurance rates will continue to rise. Even the Congressional Budget Office projects an increase in health insurance rates over the next 20 years. What can an employer who wants to offer a health plan do? The answer is, step off the insurance escalator!

Employer sponsored health plans should move far away from the traditional model, where insurers are in total control. Now is the time to consider a funding model which puts the employer in the driver's seat and enables the employer to truly control their level of risk. For some employers, this means moving away from an "ASO" arrangement with a health insurance company. For those employers still using a fully insured plan, it's time to consider self-funded, partial self-funded, or hybrid arrangements. There are many self-funded options available at this time designed to minimize exposure.

Outside of the small group market (2-50 employees), the only financial value health insurers currently provide is their network discounts. Employers should only lease a health insurer's network. To have a health insurer do more than this today no longer makes financial sense and is not sustainable.

Karen Nixon, President of Nixon Benefits

- HDHPs will continue to evolve as the Affordable Care Act is fully implemented and consumers will be expected to bear even greater financial burden for the services that they purchase. Healthier choices will become more prominent as market forces continue to adjust and the fog of pricing transparency is gradually lifted. With medical costs constantly on the rise and the weight of those costs increasingly becoming a consumer responsibility, we must continue to look for ways to incite people to live a healthier lifestyle. This applies to the broader definition of health and wellness. Leveraging the HSA or HDHP as a mechanism to support these efforts is a logical evolution. The IRS should consider expanding the list of medical expenses eligible for HDHP reimbursement, in addition to offering rebates, credits, and incentives to a more expansive list of goods and services, promoting wellness and prevention all along the way.

Tim Borchert at Altarum Institute 3/13/2014

- **Independent Contractors & HC Reform**

Under PPACA independent contractors are not required to be covered by your health plan, but it is important that your independent contractor classification holds up.

Every business should be asking are our independent contractors *really* independent? The risk of having them ruled to be employees is not theoretical. The IRS is active in independent contractor reclassification efforts and more scrutiny is coming. No matter how you label someone, the substance of the work relationship will control. The IRS says you must evaluate 20 factors and assess whether you are controlling the method, manner and means of the work. No one factor is controlling. The duration of your work relationship is important, as is whether the work is full or part-time. Professional credentials, flexible vs. rigid hours, who supplies tools and supplies, and expense reimbursements all count. A written contract is a must for independent contractor status, but a contract alone is not enough.

Forbes 2/15/2014

- The Obama administration is delaying enforcement of another provision of the new health care law, one that prohibits employers from providing better health benefits to top executives than to other employees.

Tax officials said they would not enforce the provision this year because they had yet to issue regulations for employers to follow.

The Affordable Care Act, adopted nearly 4 years ago, says employer-sponsored health plans must not discriminate "in favor of highly compensated individuals" with respect to either eligibility or benefits. The government provides a substantial tax break for employer-sponsored insurance, and, as a matter of equity and fairness, lawmakers said employers should not provide more generous coverage to a select group of high-paid employees.

But translating that goal into reality has proved difficult. Officials at the Internal Revenue Service said they were wrestling with complicated questions like how to measure the value of employee health benefits, how to define "highly compensated" and what exactly constitutes discrimination.

New York Times 1/18/2014

How Doctors Rate Patients

"Patient activation" is a measure of how engaged patients will be in their own care. Patients who are highly "activated" have better outcomes and incur lower costs. Studies show, even though as many as 40% of Americans lack the skills, knowledge and confidence to become model patients. They fail to take their medications, skip preventive screenings and end up back in the hospital soon after discharge. "Activation" is especially important for patients leaving a hospital after surgery or trying to manage diabetes, high blood pressure or other chronic conditions.

More hospitals, health plans and employers are scoring patients on how engaged they will be in their care using an assessment called the Patient Activation Measure, or PAM. Scores make it easier to customize information, coaching and other interventions. The aim is for patients, rather than feel overwhelmed by instructions, to become confident that they can change their own behavior.

Wall Street Journal 4/1/2014

In a recent Memorandum, the IRS confirms that an employee may not contribute to an HSA if he or she is covered under a general purpose health FSA, even if that FSA contains only amounts that are carried forward from the prior year. Individuals are generally prohibited from contributing to an HSA unless they participate in a high deductible health plan and do not participate in any other health plan that provides coverage for deductibles, copayments, and other expenses that are covered under the high deductible health plan. A general purpose health FSA would cover those expenses.

The memorandum describes a few options that employers may pursue if they have added the new carry-forward provisions to their health FSAs and are concerned about the limits this might impose on an employee who wishes to enroll in a high deductible health plan with an HSA in the following year. These options include:

- ✓ Providing for the carry forward to be applied to a limited purpose health FSA that is compatible with an HSA
- ✓ Allowing employees to elect not to carry forward any unused amounts from their health FSA if they are going to enroll in an HSA.

Ballard Spahn 4/3/2014

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