

..... June 2009

Health Care Reform

Democrats in Senate, House Release Drafts of Health Care Reform Bills

The push for national health care reform intensified this month as groups in the Senate and House released draft proposals that would dramatically change the state of health care in the U.S.

Democrats on the Senate Health, Education, Labor and Pensions (HELP) committee issued a proposal designed by Sen. Ted Kennedy (D-Mass.) that would create new preventive services and provide increased funding for medical personnel. However, the plan was silent on two of the hotly debated issues – a national public health plan and a mandate that would require employers to provide coverage or pay a penalty.

Sen. Christopher Dodd (D-Conn.), who is managing the proposal, said he hopes to continue discussions with Republicans and find a compromise on those issues before Congress takes its July 4 break.

The exclusion of those key issues in HELP's proposal is an indicator of how challenging it will be to earn support from Republicans and health care industry groups.

"It's nice to have all these bipartisan meetings," said Julius Hobson, a lobbyist for hospital and physician groups, "but when you get down to the actual writing, that's where it (can) start to fall apart."

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Benefits Eligibility

Several States Make Moves on Issue of Gay Marriage

Recent actions by several states regarding same-sex marriage and domestic partnerships likely will add to the compliance challenges for human resource departments, experts say.

Earlier this month, New Hampshire became the sixth state to legalize gay marriage, effective on Jan. 1, 2010. The measure, passed by the state's legislature and signed by Gov. John Lynch, is expected to increase the number of dependents and beneficiaries who will be eligible for employer-sponsored benefits.



New Hampshire joins Iowa, Massachusetts, Connecticut, Vermont and Maine as states that have legalized gay marriage.

Washington State recently expanded its laws governing domestic partnerships but stopped short of legalizing marriage. However, the legislation passed in late May essentially puts domestic partners on the same level as legal marriages in terms of rights and benefits.

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Mental Health Coverage

Most Employers Aim to Keep Benefits, Meet New Rules

A large majority of employers say they're committed to keeping benefits that cover mental health conditions despite new federal regulations designed to bring those benefits in line with other medical coverage.

Only 7.1 percent of employers polled by the Partnership for Workplace Mental Health said they are considering dumping mental health benefits. Slightly more (7.8 percent) also are thinking about discontinuing coverage for substance abuses.



In fact, 38 percent of employers plan to boost their promotion and use of employee-assistance programs to help them achieve mental health parity as required by a federal law passed in 2008. The Mental Health Parity Act (MHPA) requires companies with 50 or more employees to provide the same coverage for mental disorders, which in some cases includes substance abuse, as they do for other medical illnesses.

A separate report by the National Alliance on Mental Illness (NAMI) found that states and employers still have much room for improvement when providing mental health services and benefits. In a grading of mental health services based on a variety of criteria -- such as access to medicine and education -- the group gave the nation a D, reflecting a lack of adequate coverage in private and public plans, the report said. ■

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Business groups reacted cautiously to the Senate proposal. "It's no secret that the biggest sticking points will be the so-called public option and the employer mandate," said Randel Johnson, a vice president of the U.S. Chamber of Commerce.

Michael Enzi (R-Wyo.), a HELP panel member, called the draft bill a "partisan wish-list that will put us on the road to government-rationed health care." Enzi said the final bill must look "very different" before his party could give its backing.

Separately, Democrats in the House issued a draft of a bill that includes a mandate for individuals and employers, the creation of a national plan and the establishment of a national exchange to help individuals and small businesses purchase insurance.

Charlie Rangel (D-N.Y.), chair of the Ways and Means committee, said the House bill would call for the immediate creation of a national plan even if it increases costs. "We're going to have a public plan. We're not going to wait two, three, five years and see what happens," Rangel said.

President Obama made health care reform a cornerstone of his election campaign. However, as bills in Congress begin to take shape, the president is shifting his position on two issues he opposed before the election – taxing employer benefits and requiring all Americans to have health insurance.

Obama recently indicated he would be open to both ideas, which moves his position closer to that of Congressional Democrats. ■

Benefits Eligibility

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A ruling in California, on the other hand, has muddled the compliance landscape there by overturning the legalization of gay marriage. In late May, the state's Supreme Court upheld Proposition 8, a voter-approved amendment to California's constitution that prohibits same-sex marriage. That legislation was sparked by a 2008 ruling by the court that overturned the state's ban on gay marriages. In this recent ruling, the court upheld the constitutional change but left intact the 18,000 marriages of same-sex couples who married before Prop 8 took effect.

This decision creates a sort of "mixed system," according to a report in the *San Jose Mercury News*. No more gay couples may wed, but those who tied the knot before this most-recent ruling will have equal rights with heterosexual married couples.

California still extends spousal benefits to state-registered domestic partners, so some employers won't see significant changes from this ruling, according to attorneys at the law firm McDermott Will & Emery LLP. However, the domestic-partner rule does not apply to self-funded plans, qualified and nonqualified retirement plans and plans that are funded outside the state. Employers with those plans should take extra care to make changes in light of the court's ruling on Prop 8.

To avoid potential compliance pitfalls, employers with operations in California should carefully review their benefit plans to make sure any spousal benefits are provided to those who were married before the state court's most-recent decision, the attorneys said.

The attorneys said employers might have to amend their eligibility descriptions in their summary plan descriptions (SPDs) and enrollment forms. In addition, employers should be very specific about the definition of "spouse" in any plan document. ■

..... Bulletin Briefs

◆ **HSA CONTRIBUTION RATES:** The IRS has announced the new maximum out-of-pocket expenses and contribution rates for plans linked to health savings accounts (HSAs) in 2010. They are:

- Single coverage: \$5,950 maximum out-of-pocket; \$3,050 contribution; \$1,200 minimum deductible
- Family coverage: \$11,900 maximum out-of-pocket; \$6,150 contribution; \$2,400 minimum deductible

◆ **SICK AT WORK:** According to a Monster.com poll, 71 percent of polled employees said they report to work even when ill. Of those, 33 percent said they do so because they fear for their job security, while 38 percent said their workload is too big to take any time off.

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