

5B. HR: Hot Topics in Health Care Reform

CAPLAW 2011 National Training Conference

Friday, June 17, 2011
9 a.m. - 10:30 a.m.

Minneapolis, MN

Ms. Theresa Corona, Esq.

Shareholder

Leonard, Street and Dienard

150 South 5th Street, Suite 2300

Minneapolis, MN 55402

612-335-1605

theresa.corona@leonard.com

Hot Topics in Health Care Reform

Theresa E. Corona, Shareholder
Leonard, Street and Deinard, PA

June 17, 2011



LEONARD
STREET
AND
DEINARD
Theresa E. Corona, Shareholder
Corona@lsd.com

Highlights

- Overview of Health Reform, including key provisions by year
- Mandated health insurance coverage provisions for employers and individuals
- Overview of significant tax provisions
- Changes affecting the industry

LEONARD
STREET
AND
DEINARD
Theresa E. Corona, Shareholder
Corona@lsd.com

Health Care Reform

- In March 2010, health care reform was enacted:
 - **The Patient Protection and Affordable Care Act and The Health Care and Education Affordability Reconciliation Act of 2010 ("PPACA" or "ACA")**
 - ♦ Increase **access** to health coverage
 - ♦ Aims to **reduce costs** via payment reductions and focus on wellness and prevention
 - ♦ Seeks to reward **"value-based"** care delivery

LEONARD
STREET
AND
DEINARD
Theresa E. Corona, Shareholder
Corona@lsd.com

Health Care Reform

- Cost: \$940 billion over 10 years (CBO)
- Coverage: + 32 non-elderly million people by 2019 (CBO and JCT)

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

What Health Reform Does NOT Do

- **No Public Health Insurance Option:** Does not include provisions for the federal government to offer a competitive health insurance product for purchase by individuals and small business in or out of the insurance exchanges. State insurance exchanges will offer health insurance products from private and non-profit insurers

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

What Health Reform Does NOT Do

- **Rationing of Care:** Does not specifically implement rationing of care; recommendations of the several cost-effectiveness and clinical-effectiveness study panels implemented via the bills are specifically prohibited from being used to restrict provision of services, even if those services are shown to be less cost-effective (or clinically-effective) than other widely available services

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

What Health Reform Does NOT Do

- **Tort Reform:** No serious tort reform; the bills call only for studies
- **Inter-state Insurance:** No federal position on the ability to purchase health insurance across state lines. The Acts leave that issue up to states that wish to collaborate and provide new rules for multi-state insurers that would allow those interstate purchases

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

Key Provisions of Health Reform Impacting Employers: Year-by-Year

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

2010: Grandfathered Health Plans

- The Health Care Reform law exempts health coverage in existence on March 23, 2010 from some of the reform requirements
 - **"Grandfathered Plan" definition:** health coverage provided by a group health plan or an insurance carrier in which an individual was enrolled on March 23, 2010
 - Grandfathered status is maintained as long as the plan continuously covers at least one person since that date
 - Grandfathered status is generally determined separately for each benefit option

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

2010: Grandfathered Health Plans

- No lifetime limits on essential benefits
- No annual limits on essential benefits beginning 2014
- May not impose preexisting conditions beginning 2014 (first plan year after 9/23/10) for children under 19)
- Waiting periods of no more than 90 days
- Can continue to impose cost-sharing on benefits, including preventive care and essential benefits
- Can cover only adult children for whom other employer coverage is unavailable until 2014

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

2010: Grandfathered Health Plans (continued)

• What changes won't impact a Plan's grandfathered status?

- The renewal of an insurance policy in effect on March 23, 2010
- Adding new enrollees
- Enhancing benefits
- Premium changes not passed on to employees
- Changes to comply with state or federal law
- Changes in third party administrators

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

2010: Grandfathered Health Plans (continued)

- Changing health insurance carriers (i.e. enter into a new policy, certificate or contract), as long as the change does not result in significant cost increases or benefit reductions, and as long as wasn't done during period when guidance did not permit changing

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

2010: Grandfathered Health Plans

- How can a Plan lose its grandfathered status?
 - Change in insurance policy or carrier resulting in significant cost increases or benefit reductions
 - Elimination of all, or substantially all, benefits to diagnose or treat a particular condition
 - Increase in percentage cost sharing requirement (i.e. coinsurance) above the level at March 23, 2010

LEONARD
STREET
AND
DEINARD

Insurance Writen
Contract Sales

2010: Grandfathered Health Plans

- How can a Plan lose grandfathered status?
 - Increase in fixed amount cost sharing requirements (other than copayments) by more than the increase in the medical inflation component of CPI-U since March 23, 2010 plus 15 percentage points
 - Anti-abuse provisions

LEONARD
STREET
AND
DEINARD

Insurance Writen
Contract Sales

2010: Grandfathered Health Plans

- How can a Plan lose grandfathered status?
 - Copayment increases of more than the greater of:
 - ♦ a total %age that is more than medical inflation measured from March 23, 2010 plus 15 %, **OR**
 - ♦ \$5, increased by medical inflation measured from March 23, 2010
 - Reductions in the employer 's contribution rate in excess of 5% below the contribution rate in effect on March 23, 2010
 - More restrictive overall annual or lifetime dollar limits

LEONARD
STREET
AND
DEINARD

Insurance Writen
Contract Sales

2010: Changes that have already affected Group Health Plans

- No pre-existing condition exclusions for children under 19 years old
- **For plan years beginning on or after Sept. 23, 2010:**
 - Expansion of dependent coverage to age 26 (limited for grandfathered)
 - Prohibition on lifetime and annual limits for essential benefits
 - Prohibition on coverage rescissions
 - 100% coverage for preventive care and immunizations (No co-pays, deductibles or co-insurance, unless grandfathered)

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2010: Changes that have already affected Group Health Plans

- **For plan years beginning on or after Sept. 23, 2010:**
 - Emergency services to be covered at in-network levels
 - Fully-insured plans can no longer discriminate (e.g., executive health plans and other plans favoring highly-compensated employees) (*delayed until further notice*)
 - Plan enrollees must be permitted to select any available participating PCP
 - Eliminates pre-authorization or referral requirements for OB/GYN care

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2010: Tax Credit for Small Employer Health Premiums

Eligible small employer:

	Full Credit	Upper Limit
• Number of FTEs	≤10	25
• Avg. annual payroll per FTE	≤\$25,000	\$50,000

- Employer contributes ≥50% of employee premium
- Tax credit of 35% of premium in 2010-2013; increases to 50% in 2014-2015
- Phases out if # employees > 10 and wages > \$25k
- Credit offsets regular tax or AMT
- *This will only benefit the smallest employers*

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2010: Tax Credit for Small Employer Health Premiums

- Data needed to calculate the credit:
- FTE count: Total payroll hours up to 2,080 per person
 - Include part-time but not seasonal (<120 days)
 - Exclude owners and family member employees
 - Divide by 2,080 hrs. for FTE count
 - FICA wages: Add all wages, but exclude seasonal workers and owners/family
 - Calculate avg. wages per FTE
 - Calculation requires several steps

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2011: W-2 Disclosure of Health Coverage Cost

- Effective for 2011, W-2 must disclose cost of employer-provided health benefits [IRC Sec. 6051(a)]
 - Includes medical insurance, dental and vision plans, and self-insured arrangements
 - No reporting for employee salary-reduction FSAs or employer HSA funding

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2011: W-2 Disclosure of Health Coverage Cost

- The IRS has delayed implementation of this provision
 - ♦ Interim guidance issued March 29, 2011
 - ♦ Voluntary for 2011; Mandatory for 2012 (i.e., for W-2s issued by January 31, 2013)
 - ♦ For "small" employers, delayed to forms provided after 1/1/14

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2011: W-2 Disclosure of Health Coverage Cost

- Report Aggregate Reportable Cost (ARC) of all "applicable employer-sponsored coverage"
 - Made available to an employee by an employer
 - Excludable from employee's gross income under Section 106
- Latitude given for reporting in-year terminations as long as consistent
- Why??

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2011: W-2 Disclosure of Health Coverage Cost

- **Methods for Calculating the Cost of Coverage**
- Cost is generally the same as the applicable COBRA premium excluding the 2% administrative load
- Three Methods
 - COBRA Applicable Premium Method
 - Premium Charged Method
 - Modified COBRA Premium Method

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2011: Cafeteria Plan Changes

- **OTCs no longer reimbursable under employer-provided FSAs, MRPs, HRAs, HSAs, and Archer MSAs.**
 - Removes over-the-counter drugs (OTCs) from the list of qualified medical expenses for reimbursement through these accounts
 - Exception for OTCs that are prescribed - state law definition
 - Tax-free reimbursements remain for prescription drugs and insulin

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2011: HSAs

- **Increased penalty for withdrawing funds from Health Savings Account for non-medical expenses**
 - From 10% to 20% penalty in 2011
 - **Similar change for Archer MSAs**

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2011: Minimum Loss Ratios

- **Minimum medical loss ratio (MLR) limits imposed on insurers**
 - Medical Loss Ratio: Amount of premiums spent on medical care and quality improvement vs. plan administrative costs
 - ♦ Large Employer plans = at least 85%
 - ♦ Individuals and small employer plans = at least 80%
 - ♦ Insurers must issue rebates to consumers if MLR not met

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2011: New SIMPLE Cafeteria Plans

- Avoids discrimination testing of regular cafeteria plan [IRC Sec. 125(j)]
- Requirements:
 - 100 or fewer employees during either of two preceding years
 - ♦ Can cover up to 200 employees if plan already in place
 - Employer funds either:
 - ♦ Nonelective contribution equal to uniform percentage (not less than 2%) of employee compensation **or**
 - ♦ Matching contribution equal to lesser of 2x employee contributions or 6% of employee compensation

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2011: New SIMPLE Cafeteria Plans

- Must cover employees who completed over 1,000 hrs. of service during the preceding year
- Can exclude:
 - ♦ Employees not yet 21 yrs
 - ♦ Employees who have not completed a year of service on any day during the plan year
 - ♦ Collectively bargained employees unless bargained for
 - ♦ Nonresident aliens with no US sourced income

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2011: New Trends in Cafeteria Plans

- Some employers have considered placing money into each employee's cafeteria plan account and allowing employee to purchase health insurance with pre-tax dollars this way, rather than through group plan
 - Private "Exchanges" developing
- Cost to employer is known
- Can be more cost effective for many employees

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2011: New Trends in Cafeteria Plans

- Unclear whether this creates an employer plan
 - If employer plan, then HIPAA applies - no pre-existing limitations permitted
 - Also, if employer plan, gender discrimination not permitted
 - Application of new 105(h) nondiscrimination rule unclear
- This should become less risky in 2014

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2011: Nondiscrimination Rules

- Health Care Reform expands the nondiscrimination rules of IRS Code Section 105(h) to cover fully-insured group health plans (similar rules apply to self-insured plans)
 - Also includes Health Reimbursement Arrangements (HRAs) or stand-alone Medical Reimbursement Plans (MRPs)

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2011: Nondiscrimination Rules

- IRS enforcement has been delayed for IRS to clarify the definition of discriminatory benefits in a group health care plan
- Unclear how this applies to partners/LLC owners/2% s-corporation owners
- Good faith compliance with the statute is required (?)

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2011: Nondiscrimination Rules

- Penalties
 - An employer who sponsors a discriminatory insured group health plan will be subject to an excise tax liability of \$100 per day per employee affected with a maximum penalty of \$500,000
 - ♦ Exception for small employers of 2-50 employees sponsoring insured plan
 - Other employees can sue for same coverage

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2011: External Claims Appeals

- Non-grandfathered plans must implement additional internal and external components to their claims procedures
- Statutory effective date for the first plan year beginning after Sept. 23, 2010, but enforcement has been delayed
 - Generally to July 1, 2011
 - Many provisions further delayed until Jan 1, 2012
- External claims review will be available to claimants who have exhausted internal claims procedures

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

2011: External Claims Appeals

- Insurer will provide if plan is insured; self-funded plans must contract with IRO
- If plan fails to follow internal claims procedure, claim is deemed denied and claimant can proceed to external review with a "de novo" standard of review
- Rescissions are considered appealable claims

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

2012: Community Living Assistance Services and Supports (CLASS) Act

- A national, voluntary, self-funded long term care insurance program that provides per diem cash benefit in the event an individual suffers a functional—physical or cognitive—limitation

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

2012: Community Living Assistance Services and Supports (CLASS) Act

- **HHS Secretary to release program details by October 1, 2012**
 - ♦ Sign up is expected sometime after this date
 - ♦ Premiums are expected to vary based upon age at sign up
- **Premium-supported program:** law prohibits any taxpayer funding

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2012: Community Living Assistance Services and Supports (CLASS) Act

- **Employer Role**
 - Decide whether to participate in the program
 - If participate, then:
 - Auto-enroll employees, unless they affirmatively opt out
 - Make payroll deductions for the program premiums for participating employees
 - Does not require employer contribution
 - Program also available to self-employed and workers whose employers opt not to participate

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2013: Contribution Limits on Flexible Spending Accounts

- Places an annual limit on employee's FSA contributions to \$2500
 - Current law imposes no limit, other than nondiscrimination testing
 - The limit will be indexed for inflation beginning in 2013

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2013: Increased Medicare Tax on Earned Income

• **Current Law**

- Employee FICA payroll tax: 6.2% on first \$106,800

- Medicare Tax = 1.45% on all earnings

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2013: Increased Medicare Tax on Earned Income

• **New Law**

Medicare tax increases 0.9% to 2.35% for higher income earners:

- Single earned income over \$200,000
- Joint earned income over \$250,000
- Assessed on employee share only, but employer withholds
- If withholding is inadequate, must be remitted in 1040

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2013: Medicare Surtax on Unearned Income

- New 3.8% Medicare surtax on unearned income
- Lesser of:
 - Net investment income, or
 - Modified AGI in excess of \$200,000 single; \$250,000 Married Filing Jointly
- Applies to estates and trusts, too
- Exceptions: Active business income; IRA and retirement plan withdrawals; all SE income; tax-exempt income

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Contract Sales

2013: Medicare Surtax on Unearned Income

Net investment income

- Interest, dividends, annuities, royalties, rents
- Passive income
- Trading in financial instruments/commodities
- Capital gains and other property disposition gains

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

Medicare Surtax on Unearned Income Example

- **Example 1:** Husband & Wife have \$280,000 of salaries and \$20,000 of interest income or a \$300,000 MAGI
 - **RESULT:** Interest income is less than income in excess of threshold so surtax is **3.8% x \$20,000 = \$760**
- **Example 2:** Husband & Wife have \$240,000 of salaries and \$20,000 of interest income or a \$260,000 MAGI
 - **RESULT:** Pay surtax of **3.8% x \$10,000 = \$380**

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2014: Employer reporting obligations

Employers offering health insurance to their employees in 2014 will be required to report:

- Names of FT employees on the health plan
- Employer contribution levels to employee health care coverage premiums
- Plan waiting period length
- Whether employer-sponsored plan meets "minimum essential coverage" requirements
- Will IRS match up with W-2s?

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2014: Insurance Reforms Part II

- Insurers must guarantee issue and renew health insurance
- No exclusions for pre-existing conditions for all
- Insurers are prohibited from charging higher rates based upon gender or health status (individual and small group market)
- Maximum 90 day waiting periods for coverage
- Eliminates all annual limits on coverage
- 2014-2016 - insurers subject to "risk corridor" reinsurance

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

2014: Individual Mandate

- **Individual mandate to obtain health coverage:**
Beginning in 2014, individuals must obtain a minimum-level of health insurance coverage or pay a penalty
- **Minimum essential coverage can include:**
 - Medicare, Medicaid, TRICARE
 - Insurance purchased through an Exchange, on the individual market
 - Employer-sponsored coverage, OR
 - Grandfathered plans

Grandfathered plans = group health plans in existence on 3/23/2010

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

2014: Individual Mandate

- **Penalties for failure to obtain coverage:**
 - In 2014: greater of \$95 or 1.0% of income
 - In 2015: greater of \$325 or 2.0% of income
 - In 2016: greater of \$695 or 2.5% of income
 - Includes a hardship exemption
 - Penalty is capped at three times the per person amount for a family
 - Assessed penalty for dependents is half the individual rate

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

2014: Individual Mandate

- **Constitutionality of Individual Mandate is under Debate**
 - Federal government can only exercise enumerated powers
 - Congress has the power to “regulate Commerce . . . among the several States” and also has the power to “make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers” and to “tax” and “spend”

LEONARD
STREET
AND
DEINARD

Thomson Wadsworth
COURT REPORTERS

2014: Individual Mandate

- Argument: Congress may regulate purely local activity if it is economic in nature and substantially affects interstate commerce
- Argument: Congress may do anything essential to a broader regulatory scheme to regulate interstate commerce

LEONARD
STREET
AND
DEINARD

Thomson Wadsworth
COURT REPORTERS

2014: Individual Mandate

- All case precedents deal with activities, rather than a failure to act
- But, by choosing not to buy, the argument is that they indirectly force others to pay for them
- No limit on how far the defense arguments could extend
- Balancing of individual liberties vs. economic regulation
- Currently federal courts are split on the constitutionality of the individual mandate

LEONARD
STREET
AND
DEINARD

Thomson Wadsworth
COURT REPORTERS

2014: State Health Insurance Exchanges

The Health Reform laws call for:

- Creation of health insurance exchanges in all 50 states
 - Available to: small businesses, self-employed or unemployed individuals to purchase insurance beginning in 2014
- HHS Secretary to establish the rules around exchanges
 - Must consult National Association of Insurance Commissioners and others



2014: State Health Insurance Exchanges

What is an exchange?

- A marketplace for individuals and small businesses to shop for insurance
- Offer a choice of health plans
- Standardize health plan options
- Allow consumers to compare plans based upon specified criteria
- Neutral party to offer consumers assistance
- Foster competition?
- Cheap distribution channel for insurers?



2014: Exchange Plans

- Beginning in 2014, small employers can offer an exchange plan as their employer-sponsored health plan via a cafeteria plan
- Types of plans that must be offered by insurers participating in the exchange
 - ♦ Bronze = 60% actuarial value
 - ♦ Silver = 70% actuarial value
 - ♦ Gold = 80% actuarial value
 - ♦ Platinum = 90% actuarial value
- All “metal” plans must cover essential health benefits, limit cost-sharing and have a specified actuarial value



2014: Exchange Plans

- Other plans can also be offered by insurer participating in exchange
 - ♦ **Catastrophic plan**
 - Only available to individuals < 30 years old, or those exempted from the individual mandate due to unaffordability or hardship
 - Plan must cover:
 - “minimum essential benefits”
 - a minimum of three primary care visits per year

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Consumer Solutions

2014: Government assistance to help purchase insurance

- **Medicaid expansion:** Expands eligibility to individuals and families up to 133 % of the federal poverty level (FPL)
 - If cost effective, states can opt to subsidize employer-sponsored plan premiums for this group
 - 133% FPL: Individual = \$14,400
Family of 4 = \$29,326

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Consumer Solutions

2014: Government assistance to help purchase insurance

- **Premium and cost share assistance:**
 - Individuals and families with household income of 100 - 400 % FPL may be eligible for sliding-scale assistance in the form of:
 - ♦ Tax credits to help pay premiums; and
 - ♦ Out-of-pocket reductions to help with cost sharing such as co-payments and co-insurance
 - 400% FPL: Individual = \$43,320
Family of 4 = \$88,200

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Consumer Solutions

Expanding Access to Health Coverage:
Large Employer Role

Law does NOT require employers to offer health insurance

- Beginning in 2014
 - Employers with 50+ FTEs must pay a “shared responsibility” penalty if any FT employee receives subsidized insurance through a state Exchange
 - Penalty is assessed differently depending upon whether or not employer offers affordable, “minimum essential coverage” to employees

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

Expanding Access to Health Coverage:
Large Employer Role

- FTE = FT employees + FT equivalents
- FT employee = works avg. 30 or more hours per week
- FT equivalents = Hours worked in a month by all PT employees divided by 120
- **“Minimum essential coverage”** for employer-offered plans
 - Plan with 60% actuarial value
 - Employee premium cost < 9.5% of household income

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2014: Employer “Shared Responsibility”
Penalty

Penalty assessed only if a FT employee receives Exchange subsidies

- **Penalty for employers not offering coverage =**
\$2000 x each full-time worker (except for first 30 workers)
- **Penalty for employers offering coverage =**
 - At least, \$3000 x # of full-time employees receiving federal assistance BUT
 - No more than, \$2000 x each full-time employee (except for first 30 full-time workers) penalty

LEONARD
STREET
AND
DEINARD

Thomson Reuters
Contract Sales

2014: Employer "Shared Responsibility" Penalty

- Employees are not eligible for the federal subsidies if their employer coverage is deemed "affordable"
- "Affordable" means the employee premium contribution under the employer plan is less than 9.5% of their household income

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Continuing Service

2014: Free Choice Vouchers - Repealed

- All employers offering and contributing to employee health coverage would have been required to offer free choice vouchers to employees if:
 - Household income < 400% FPL
 - Employee contribution toward the employer-sponsored coverage is between 8 - 9.8% of their household income, AND
 - Employee does not enroll in employer coverage
- Department of Defense and Full-Year Continuing Appropriations Act, 2011 REPEALED Free Choice Vouchers

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Continuing Service

Free Choice Vouchers - Repealed

- Amount of "free choice vouchers" = employer's monthly contribution to the health plan premium
 - Highest % paid for any plan offered
 - Amounts tied to coverage selected (e.g., employer contribution amount for family coverage, if family coverage selected)
 - If voucher exceeded cost of plan purchased through Exchange, excess would have been paid to employee and included in his or her gross income

LEONARD
STREET
AND
DEINARD
Thomson Reuters
Continuing Service

Free Choice Vouchers - Repealed

- Individuals receiving vouchers not eligible for federal subsidies for premiums or cost-sharing
 - It was thought that young, healthy employees might choose to receive a voucher, effectively penalizing employer sponsored plans
- Employers would **not** pay the “shared responsibility” penalty for employees who receive vouchers
- Tax free for employees, deductible for employers

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

Key Employee Notification Requirements

1. Notice of grandfathered health plan status
 - Must include a statement describing the health plan benefits and contact information for questions or complaints, as part of plan materials provided to participants (for plans in existence on 3/23/10)
2. Notice of key plan design changes (effective 1/1/11)
 - Annual and lifetime limit changes
 - Eligibility for dependent coverage of adult children
 - Primary care physician designation and OB/GYN self-referral change
3. Summary of medical benefits (starting 3/23/12)
4. Summary of material changes (effective 3/23/12)

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

Key Employee Notification Requirements

5. Summary of plan's care management process (effective 3/23/12)
6. Notice of eligibility for health insurance exchange (effective 3/1/13)
7. Large employers (200+ FT employees) to auto-enroll employees into health benefits and notify of right to opt out (effective 1/1/11 but delayed)

LEONARD
STREET
AND
DEINARD
Insurance Writen
Contract Sales

What Should Employers Do Now?

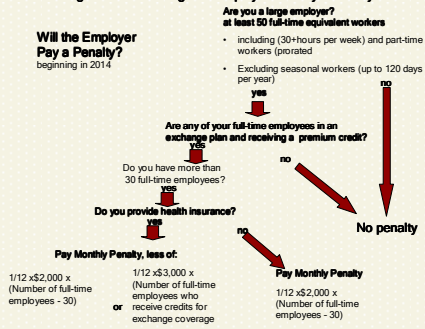
- Begin working on new payroll reporting requirements (W-2 reporting and employer expenditure reporting)
- Ensure plan, insurer or third party administrator's documents are up to date with changes
- Model costs to comply beginning in 2014

LEONARD
STREET
AND
DEINARD

Theresean Weston
Chairman, Senior

Figure 1-Determining if an Employer Will Pay a Penalty

Will the Employer Pay a Penalty? beginning in 2014



LEONARD
STREET
AND
DEINARD

Theresean Weston
Chairman, Senior

Thank You

Theresa E. Corona
(612) 335-1605
theresa.corona@leonard.com

<http://www.leonard.com>

© 2006, Leonard, Street and Deind Professional Association.
Leonard, Street and Deind and the Leonard, Street and Deind logo are registered trademarks.

LEONARD
STREET
AND
DEINARD

Theresean Weston
Chairman, Senior
