PROFESSIONAL GROUP PLANS

Specializing in Employee Benefits

August 2019 Quarterly News

Your Guide to Health & Welfare Compliance

Inside this Issue...

ACA

Here Come the 972CG Letters

We are beginning to see letter 972CG slamming employers for failure to timely file forms 1095-C with the IRS. One of our clients who filed the forms in September 2018 for 2017 is facing a severe penalty. At $260 per form in 2017, 200 late file forms can add up. They did, to the tune of $52,000. We have also seen the same form used when an employer mailed the forms instead of electronically filing which is required when they are over 250 forms. For the latter, the penalty is based on the number of forms over 250 that were mailed instead of electronically submitted. They had 75 forms over 250; the potential penalty is $19,500.

The IRS means business.

Time is of the essence. The employer, according to the Notice, has 45 days to comply, and a business operating outside of the United States has 60 days to comply.

To fight the charge, an employer will have to provide the IRS with an explanation as to why. The IRS will review the explanation and apply their “reasonable cause” standard. This is what the IRS is considering:

“The employer acted responsibly both before and after the failure occurred and that there were significant mitigating factors concerning the failure, or the failure was due to events beyond the filer’s control.” See IRS Publication 1586

Employers are now on notice that forms must be filed properly and on time. Make sure you have your ducks in a row for 2019 filing year so that you will not face any late penalties. ACA is the law of the land and nothing has changed. Employers have now had to file for four years and the IRS is getting serious.

HSA

Should You Invest?

It is difficult to know if you should invest your hard-earned money in an HSA. For one, what is an HSA? How is it different from an FSA? WHAT IS AN FSA!? All the terms and acronyms can be a bit confusing for any employee, so let's take some time to clear things up and better prepare ourselves for the future. I'm not sure about you, but I'd love to retire before I'm 80!

Let's tackle the 9 most important things you should know concerning a Health Savings Account and how it is beneficial to you in the long-run.

1 - What is an HSA?

An HSA is a savings account that allows employees to set aside PRE-TAX money to pay for qualified medical expenses. Some of the things considered "qualified" are deductibles, copayments, and coinsurance which can help lower healthcare costs.

2 - Who qualifies for an HSA?

Any individual who is covered by a high-deductible health plan, not covered by any OTHER health plan, not enrolled in Medicare, and is not claimed as a dependent on a tax return is eligible to make or receive contributions to an HSA. For those who didn't know – that would be me – a "high-deductible health plan" is a plan that has a deductible of at least $1,350 for an individual or $2,700 for a family. This includes plans from the Marketplace if they are listed as "HSA eligible."

3 - What are the perks?

Have to say, the perks for an HSA are pretty sweet!

a. Any contribution you make into your HSA is tax deductible! So, keep those records to submit the deductions during tax time.

b. An HSA is tax-free. What does this mean? Well, the money you take out to pay the qualified medical expenses, mentioned in #1, in addition to dental and vision expenses, is NEVER taxed! Shocking, right!?

c. Your HSA contributions earn interest!

d. Even better…that interest is tax-deferred. What does tax-deferred mean? A tax-deferred status refers to investment earnings (interest) that accumulate tax-free until the person investing takes possession of the profits.

e. It's YOURS! If you don't use all your funds in a year, all is not lost! Those funds will roll over and continue to grow, tax-deferred!

HSA

Should You Invest?

4 - What is the difference between an HSA and an FSA?

Okay, so we know that an HSA is a “health savings account,” and in case you didn’t know, an FSA is a “flexible spending account.” But beyond the name, what are the major differences? Here are a few of the important distinctions:

a. You can utilize an HSA even if your employer does not offer it; an FSA is only available through your employer

b. FSA’s help you save pre-tax dollars for health expenses for the current year, while HSA’s help you save pre-tax dollars for health expenses at ANY time in the future

c. If you don’t use your FSA funds you lose them! See point 3E above for HSAs.

5 - Are HSAs available for self-employed individuals?

YES! You can enroll in an HSA as long as you qualify under the standards mentioned in #2. Contact your bank or insurer for their options, or use this search tool: https://www.hsasearch.com/

6 - How do you contribute to an HSA?

You may choose to have your HSA contribution deducted from your paycheck, directly from your bank, or, if you still know what a check is, you can write one of those!

7 - What are the limits for contributions?

The 2019 contribution limit per year for an individual is $3,500 and $7,000 for a family.

8 - How do you use your HSA for retirement?

Try to avoid using your contributions at all. One of the BEST ways to use your HSA is to treat it as an investment. This triple tax-advantaged savings account (see #3, a, b, & d) can accrue funds and interest from year to year without losing any of your money. It is also very important to consider where you place your investments. Your employer makes it easy to set up an HSA but the choice of where to put your money is up to you. Make sure you shop around for a plan with high-quality/low-cost options such as Vanguard.

9 - What if you HAVE to spend your contributions?

Only spend your HSA funds on qualified medical expenses. Distributions for these expenses are tax-free. If you spend the money on anything else before the age of 65 you will pay a penalty of 20%, plus more in income tax!

HRA News

Summary of Final Rule

New HRA rules were issued jointly by the IRS, DOL, and HHS on June 13, 2019. These rules create two new types of Health Reimbursement Arrangements that will be available beginning January 1, 2020.

Below is a summary of the two new types of HRA:

Individual Coverage HRA (ICHRA)

- May be offered by any size employer.
  - Allows employers to reimburse premiums for individual medical coverage, including:
    - Private market coverage
    - Exchange/marketplace coverage
    - Medicare
  - Counts as an offer of coverage under the ACA's employer mandate if the employer is an Applicable Large Employer (ALE)* *(For ACA purposes, an ICHRA is considered to be integrated with the individual health plan)*
  - Allows employees to contribute additional premium amounts for individual coverage through a Section 125 Cafeteria Plan (unless coverage is purchased through an exchange or the federal marketplace).
  - Unused ICHRA funds may be rolled over from year to year.
  - May not be used to purchase Short Term, Limited Duration Insurance (STLDI) or coverage that consists only of Excepted Benefits (for example, plans providing only limited-scope dental and vision benefits).
  - An employee may not be offered a Group Health Plan and an ICHRA during the same plan year.
  - Employees must be allowed to opt out of the ICHRA once each plan year.
  - Must be offered uniformly across a class of employees that is based on specified criteria (such as full-time vs. part-time, hourly vs. salaried, geographical region, insurance rating area, collective bargaining unit, etc.).
  - A class of employees offered an ICHRA may have to meet minimum size requirements:
    - 10 employees (if the employer has <100 employees)
      - 10% of employees (if the employer has 100 to 200 employees)
      - 20 employees (if the employer has >200 employees)
    - A higher benefit amount may be offered based on employees' age or number of dependents.
  - Employer must provide eligible employees with a notice describing the plan's terms and its impact on the availability of a Premium Tax Credit at the Exchange.
  - Prior to enrollment, employees must substantiate that they are (or will be) enrolled in individual health insurance coverage for the plan year. Substantiation must also be provided on a month-by-month basis.
  - An ICHRA may also reimburse general medical expenses (i.e., Section 213(d) expenses)

**The IRS is expected to release additional guidance explaining how the employer mandate applies to ICHRAs*

Excepted Benefit HRA (EBHRA)

- Special type of HRA that is treated as an Excepted Benefit for purposes of the ACA.
- May reimburse general medical care expenses (including those that are not Excepted Benefits).
- HRA contribution is limited to $1,800 per year (will be indexed for inflation beginning in 2021).
- A Group Health Plan must be offered to employees who are eligible for the EBHRA (however, employees may participate in the EBHRA without enrolling in the GHP).
- May not reimburse premiums for individual medical coverage, a Group Health Plan, or Medicare.
- Unused EBHRA funds may be rolled over from year to year.
- The plan must be offered uniformly under the same terms to all similarly situated individuals.

Financial Wellness Program

Why is it a Great Idea for Employers?

With a low unemployment rate, some employers are having difficulties in recruiting new workforce professionals. Therefore, what it would take to hire loyal and steadfast workers? Research has shown that money is not always the top draw, but the following are leading contenders:

- Training and career development
- Social and off-site events
- Flexible work hours
- Remote work ability
- Student Loan repayment assistance
- More holiday time off – birthday off
- Low-cost personal loans for employees with payroll deduction repayment options
- Tuition assistance

According to the PwC 2019 Annual Employee Financial Wellness Survey, an Employee's biggest stress in their life is their finances, or inability to meet their monthly financial obligations, survive the next personal crisis, and save for retirement. Most employees are living paycheck to paycheck. The survey indicates that 30% of employees are distracted during their workday trying to work through financial stressors in their personal lives.

Employers who offer financial assistance and financial training to their employees reap benefits. According to the Prudential Wellness Programs Census, "employers who help their employees on both [the financial and physical health] fronts…can offer: healthier, happier, more productive employees…leading to lower absenteeism, fewer delayed retirements and reduced...employee turnover, healthcare costs and employee disability."

A notable result in various studies conducted is employees who are offered and take advantage of the financial programs think more highly of their employers.

Student debt is astronomical. The average student loan debt for a 2016 graduate was $37,102, a 78% increase from 10 years earlier. Additionally, four out of 10 graduates are expected to default on their student debt.

Employers are introducing new financial wellness programs to attract new talent and motivate employees to improve their well- being and retirement readiness, such as employer-sponsored savings accounts and video-games/mobile apps educating employees about essential personal finance topics.

Chegg, an educational technology company, believes that as an employer they benefit professionally due to their employees' education and have implemented a program to assist employees to pay down their student debts called "Equity for Education." Young employees and their families are financially struggling to pay back student debt to obtain a college degree.

In February 2019, members of Congress re-introduced legislation that would allow employers to offer tax-free student loan assistance up to $5,250 per year per employee; the same allowed for employer-provided tuition assistance in Section 127 of the Tax Code.

The Mayo Clinic stated, "stress that's left unchecked can contribute to health problems, such as high blood pressure, heart disease, obesity, and diabetes." The U.S. Department of Health and Human Services identified financial problems as a common cause of stress, noting that "depression is more common in women whose families live below the federal poverty line." The World Health Organization added "burnout" to its list of medical diagnoses. All of these factors lead to increased number of health claims and health care costs for employers.

It comes as no surprise that more and more employers are understanding the value of financial wellness programs and the benefits the company derives, especially in the competitive employee marketplace.

Medicare Part D Creditable Coverage Notice to Individuals

Due by October 14, 2019

A Medicare Part D plan provides prescription drug coverage under Medicare. The Medicare Part D notice, required by the Medicare Modernization Act (MMA) at least once a year, provides information to individuals enrolled in Medicare about whether employer-provided prescription drug coverage is creditable and the consequences of failing to enroll in a Medicare Part D plan in a timely manner. Creditable coverage is coverage that is expected to pay on average as much as the standard Medicare prescription drug coverage.

Who Must Comply?

All sponsors of group health plans that offer prescription drug coverage.

When must an employer notify their members of the plan's creditable coverage status:

- Prior to an individual's initial enrollment period;
- Prior to the effective date of coverage for any Medicare-eligible individual that joins your plan;
- Whenever prescription drug coverage ends or changes so that it is no longer creditable or becomes creditable;
- **Prior to the Medicare Part D Annual Coordinated Election Period beginning on October 15 of each year;** or
- Upon the request of a beneficiary.

Who Must Receive?

The following people must receive the notice if they are enrolled in Medicare Part A or B:

- all employees and former employees who are enrolled in the employer's group health plan;
- all eligible employees who are not enrolled in the employer's group health plan; and
- all eligible dependents whose last known address is different than that of the employee

Note: *It may be difficult to know which individuals are enrolled in Medicare, so an employer may provide Medicare Part D notices to all eligible employees.*

Method of Delivery:

Notice can be delivered electronically:

- to employees that have the ability to access electronic documents where they are reasonably expected to perform duties and need access to the company's electronic information system as an integral part of their job; and
- to individuals who consent to receiving the information electronically

Otherwise, notice must be provided in hard copy.

Notice can be delivered with other plan materials so long as the notice is "prominent and conspicuous," which means that the notice portion of the document must be prominently referenced in at least 14-point font in a separate box, bold, or offset on the first page.

If notice is being provided electronically to an employee, the employee must be informed that he or she has an obligation to provide a copy of that notice to covered Medicare-eligible dependents. This sample text may be included in an email:

"The attached notice provides information about prescription drug coverage under our plan and about prescription drug coverage that is available under Medicare. It can help Medicare-eligible individuals decide whether to join a Medicare prescription drug plan. We are providing this notice to you, but it also applies to your dependents. You are responsible to share this information with any Medicare-eligible dependent covered under our plan".

Medicare Part D Creditable Coverage Notice to Individuals

Due by October 14, 2019

Required Content for a Creditable Medicare Part D Notice:

If an employer's prescription drug coverage is creditable, the notice must explain:

- that the employer has determined that its plan's coverage is creditable;
- the meaning of creditable coverage;
- why creditable coverage is important; and
- that if individual has a break in creditable coverage for 63 days or longer before enrolling in a Part D plan, he or she may be required to pay higher premiums for Medicare Part D coverage.

The model notice must be customized with the following information:

- company name;
- plan name;
- an explanation of the prescription drug coverage offered under the plan to Medicare-eligible employees (e.g. individual can keep coverage and this plan will coordinate with Part D coverage, or coverage will cease under this plan if elect Part D coverage); and
- a contact person's name or title, address and phone number.

Required Content for a Non-Creditable Medicare Part D Notice:

If an employer's prescription drug coverage is not creditable, the notice must explain:

- that the employer has determined that its plan's coverage is not creditable;
- the meaning of creditable coverage;
- that an individual generally may enroll in Medicare Part D from October 15th through December 31st of each year;
- why creditable coverage is important; and
- an individual may be required to pay higher premiums for Medicare Part D coverage if the individual fails to enroll in Medicare Part D when first eligible.

The model notice must be customized with the following information:

- company name;
- plan name;
- an explanation of the prescription drug coverage offered under the plan to Medicare-eligible employees (*e.g. individual can keep coverage and this plan will coordinate with Part D coverage, or coverage will cease under this plan if elect Part D coverage*); and
- a contact person's name or title, address and phone number.

Your PGP Employee Benefits Consultant can help you determine if a Plan's coverage is creditable or answer any questions you may have.

MODEL NOTICES

Medicare Part D Creditable Coverage Model Notice - **Click here** for English. **Click here** for Spanish.

Medicare Part D Non-Creditable Coverage Model Notice - **Click here** for English. **Click here** for Spanish.

Medicare Part D Disclosure to CMS

Employers must also provide an electronic disclosure to CMS once a year via the CMS website within 60 days (by March 1) after the beginning date of the Plan Year. The disclosure must also be provided within 30 days after the termination of a prescription drug plan and within 30 days after any change from creditable to non-creditable coverage (or vice versa).

Federal Open Enrollment Reminder

Important Dates and Deadlines

Small Group Federal Open Enrollment Reminder

- **11/15/19 through 12/15/19 all carriers (NO EXCEPTIONS)**

The Affordable Care Act (ACA) requires health insurers to offer a one-month Special Open Enrollment Period, where eligible small groups can enroll in coverage without having to meet standard employer-contribution and/or employee-participation ratios.

The Special Open Enrollment Period allows eligible small groups to enroll for coverage for a 1/1 effective date in every state. Additional effective dates in November and December are available but vary by state and carrier.

Contact your PGP Employee Benefits Consultant to confirm effective dates for Federal Open Enrollment.

We will update you with carrier specific rules as they become available to us.

Submission Deadlines for Small Group Federal Open Enrollment

A group application must be fully submitted to the carrier between 11/15 and 12/15 or the group will be subject to participation and contribution requirements. There are NO EXCEPTIONS to this rule.

Individual Federal Open Enrollment Reminder

Under the Affordable Care Act (ACA), federal open enrollment for individuals is the period that people who need health insurance can sign up for an individual insurance plan. Unless someone experiences a "qualifying event" outside of the open enrollment period, open enrollment is the only time to sign up for individual health insurance under the Affordable Care Act.

- The 2019 Open Enrollment Period for individual plans runs from November 1, 2019, to December 15, 2019.
- Plans sold during Open Enrollment start January 1, 2020