

# Employee Benefits Institute of America 2011 Summer Conference Highlights

On July 20, 2011, I attended the 13th Annual Advanced Cafeteria Plans and Benefits Conference in Minneapolis, Minnesota. The conference was hosted by the Employee Benefits Institute of America and the speakers were benefit attorneys from all over the country. At the three-day conference the attorneys spoke about many topics. However, in this newsletter I would like to share those topics that are applicable to flex plans, as well as a few other topics of interest. We will also recap the rule changes for flex plans that began in 2010.

Look for a bulletin with common Q&As discussed and reviewed at the Conference. It will be coming shortly and is very helpful.

## Timelines:

2010 - New dependent age of 26

2011 - Over-the-counter drugs and medicines require a doctor's prescription (exception- insulin)

2012 - W-2 reporting of health benefits will be required (optional in 2011)

2013 - Health FSA cap - medical spending account limit will be \$2500 per plan year.

2014 - Exchange Coverage will be available

Healthcare Reform is now more than one year old. Change continues and there is new guidance which will impact insurance coverage, flex plans and HRAs. FlexMagic Consulting is looking out for you to help ensure your plans remain compliant according to the new rules and regulations.

**Effective September 23, 2010** the age for dependents regarding health coverage changed to age 26. This means children can be covered by insurance, FSAs and HRAs up to their 26th birthday. The only requirement is that the dependent is your child, regardless of a child's residency, financial dependency, student status, employment status, or other factors.

**Effective January 1, 2011** all over-the-counter medicines and drugs, with the exception of insulin, require a doctor's **prescription**, not to be confused with a doctor's letter. **Prescriptions** are for medicines and drugs. **Doctor letters** are for medical procedures/treatments such as massage therapy, vitamins and supplements, capital expenses, cosmetic procedures, etc. and are still required as documentation when claims are made for these types of expenses.

The **prescription** needs to include the name of the patient, name of the drug or medicine and times of use for that particular medication. The prescription can be written to cover up to one year of treatment. The participant is required to provide a new prescription at the beginning of each plan year.

**Effective January 1, 2012** employers will be required to report certain benefits on the W-2s in Box 12, Code DD. This means the employer will report any of the following items on the W-2s that are given to employees in 2013 for the 2012 calendar year. Currently the only two items that an employer is required to report are dependent care and HSA contributions. The purpose for the new reporting is strictly for informational purposes - employees will not be taxed on these dollars. We will be sending out a bulletin with more information and examples during the calendar year of 2012, to help you better understand what needs to be reported.

- Health Insurance Premiums – Report the full employer and employee share of premiums (the total premium is reported). Dental and Vision premiums are excluded if they are written under a separate policy.
- Health FSAs – First ask yourself if there is an employer contribution. If not you can STOP - you are not required to report anything. Health FSAs are only reported if there is an employer contribution. Even if there is an employer contribution you may not have to report. Clarification of when to report will follow once we have all the rules.

- Dependent Care – Report all dependent care expenses incurred during the calendar year.
- HSAs – Report both the employer and the employee contributions to the HSA Trust if they are made with pre-tax dollars.
- HRAs – No W-2 reporting is required for HRAs.

**Effective January 1, 2013**, all Health FSAs will be capped at \$2500 per plan year and indexed annually beginning January 1, 2014. If your plan year is a calendar year and runs January 1, 2012 through December 31, 2012, you will need to make sure that your medical FSA is capped at \$2500 for the plan year beginning January 1, 2013. If your plan year begins any time after January 1, 2012 you will need to amend your document to reflect the \$2500 cap to ensure that your plan remains compliant under the new rule for the portion of the plan year that is in 2013. The new \$2500 limit is not an eligible status change for your employees to make a change to their health FSA election. Example: plan year begins February 1, 2012 and runs through January 31, 2013, your employee elects \$3000 in the Health FSA, he/she will be taxed and possibly penalized on the \$500 which exceeds the \$2500 limit. The plan will also be noncompliant as of January 1, 2013 and possibly penalized as well. FlexMagic Consulting will remind and recommend to all clients at renewal time to revise the Health FSA limit to a maximum of \$2500. The cap does NOT apply to HRAs.

**Effective January 1, 2014** medical insurance exchanges will be available. As the time approaches we will have more information available and will share what we learn with you. We know there will be a website where participants can choose a plan that is best suitable for him/her and/or the family. In most cases, there will be an option to keep current insurance coverage.

We are told at this time that exchange premiums will not be reimbursable through a Flex Plan, therefore, taxes will be paid on these premiums. However, there may be an exception for exchange-eligible employers (generally smaller employers) that offer employees the opportunity to enroll through an exchange. We will keep you posted as we know more.

Stay well!