

TAXSAVER PLAN

"Your Satisfaction Is Our Success"

WHAT YOU NEED TO KNOW...

RED FLAG RULES...WHAT DOES THIS MEAN FOR YOU AND FOR TAXSAVER PLAN?

The Federal Trade Commission (FTC) has announced that it is again postponing its enforcement of the Identity Theft Red Flags Rule, this time through December 31, 2010. The Red Flags Rule was issued jointly by several federal agencies and became effective on January 1, 2008. It requires financial institutions and creditors with "covered accounts" to implement written identity theft prevention programs that are designed to detect the warning signs ("red flags") of identity theft in their day-to-day operations and to reduce the risk of identity theft. The FTC has delayed the Red Flags Rule's enforcement for entities under its jurisdiction on multiple occasions. Most recently, the FTC announced in October 2009 that it was delaying enforcement of the Rule until June 1, 2010, in order to allow time for Congress to finalize legislation that would limit the scope of businesses covered by the Rule.

The FTC's decision to further delay its enforcement of the Red Flags Rule follows a request from several members of Congress to delay the Rule's enforcement in order to "give Congress time to reach a consensus on the types of businesses that should be covered under the Rule." The FTC concluded that a limited further postponement was warranted through December 31, 2010, in order to avoid enforcing a regulation that Congress plans to supersede. The announcement notes that if Congress passes legislation limiting the scope of the Red Flags Rule with an effective date earlier than December 31, 2010, the FTC will begin enforcement as of that effective date.

Taxsaver Plan has the ability to run several reports out of our FSA Debit Card system at this time that will comply with enforcement of Red Flags Rule, as the Rule currently stands. We will keep you posted as Congress releases more information about Red Flag Rules in the coming months.

OVER-THE-COUNTER EXPENSES IN 2011:

We are awaiting additional clarification from the IRS on the term "prescribed". We hope to have this shortly so that we can begin our communications for 2011 enrollment and participant updates.

DEPENDENTS AGE 26 AND PLAN AMENDMENTS:

As you know by now, recent health care reform legislation requires group health plans (and insurers of group or individual health coverage) that offer dependent coverage to continue making such coverage available for an adult child until age 26. Coverage of these adult children must be offered for plan years beginning on or after September 23, 2010. IRS guidance has confirmed that employer-provided coverage of adult children is nontaxable until the end of the year that the child turns 26. Now, the IRS, DOL, and HHS have jointly issued interim final regulations (effective July 12, 2010) implementing the coverage requirement for adult children. Here are highlights:

==> Plan Terms. With respect to the eligibility of a child under age 26, the regulations prohibit plans from defining "dependent" in terms other than the relationship between a child and a participant. Thus, factors such as residency, financial dependence, student status, or employment cannot be used in determining a child's eligibility, whether the child is a minor or an adult. In addition, the terms of the plan cannot vary based on the age of a child, except for children age 26 or older. Plans are not required, however, to cover a child's spouse or children. Significantly, the regulations provide no definition of the term "child."

==> Enrollment and Notice. Children who become (or are required to become) eligible to enroll as a result of this coverage requirement must be given written notice of their enrollment rights not later than the first day of the first plan year beginning on or after September 23, 2010. They must be given at least 30 days to enroll, regardless of whether the plan otherwise offers an open enrollment period. This right applies not only to children who were on the plan and aged out, but also to children who were not previously enrolled or were not previously eligible. Coverage elected must be effective no later than the first day of that plan year--retroactively, if necessary. Notice provided to the employee counts as notice to the employee's children. The notice may be provided with other enrollment materials distributed to employees, if the notice is prominent.

==> Special Enrollment Rights--Same Benefit/Same Price. Any child enrolling in a group health plan under this mandate must be treated as a HIPAA special enrollee and must be offered all of the benefits that are available to similarly situated individuals who did not lose coverage because of a loss of dependent status. If the parent must be enrolled in order for the child to take advantage of the special enrollment opportunity, then that non-enrolled parent must be allowed to enroll. Also, an enrolled parent must be allowed to switch benefit options. Finally, the child cannot be charged more for that coverage than is charged with respect to other children who have not aged out.

==> COBRA Qualified Beneficiaries. An example in the regulations illustrates that a child under age 26 who is currently on COBRA (after losing dependent status under the plan) and whose parent is an active employee, must be allowed to enroll in the plan for "regular" (non-COBRA) coverage. If the child does so, he or she may be entitled to COBRA again later, which could be for a 36-month period following a loss of eligibility relating to turning age 26.

It is important to take the time to review the definition of Dependent in your existing Plan Documents, both Cafeteria and Health & Welfare, to ensure that your current definition of Dependent will include children age 26. If your Documents reference Code Section 152 under the definition of Dependent, you will need to amend your Plans. Taxsaver Plan will offer an amendment for this purpose in the coming months. All plans must be amended by December 31, 2010.

Thank You,

Charles Zelazny
President

Kelsey Zelazny
Vice President

Marsha Hooper
COO