

Date: August 10th, 2007

Re: Change in Definition of Dependent under Minnesota Insurance Law

Dear Valued Employer:

During the 2007 legislative session, the Minnesota legislature made a relatively minor change to a Minnesota insurance law that could have a significant impact to you and your employees.

The legislature amended the definition of “dependent” found in Section 62L.02, subdivision 11, to provide that “dependent” includes, among others, “unmarried children under the age of 25”. Currently, a child aged 19 through 24 has to be a full-time student in order to be a dependent unless the child is disabled. This amendment to Section 62L.02 becomes effective January 1, 2008

Direct Impact of Amendment – To Whom Coverage Must be Provided

The definition of “dependent” in Section 62L.02 is incorporated into Section 62A.302. Under this section of the statute, every insured health plan (medical, dental, vision) that provides dependent coverage must define “dependent” no more restrictively than the definition of “dependent” found in Section 62L.02.

As a result, all fully insured group health policies issued in Minnesota will need to provide coverage to employee’s children until they turn 25 regardless of student status, unless no dependent coverage is provided at all. Special rules may apply to group health plans (fully insured and self-insured) sponsored by governmental employers. We will provide additional information as further guidance on these rules become available.

Indirect Impact of Amendment – Tax Consequences of Certain Required Coverage

The amendment to the statute creates a tax issue for employers sponsoring group health coverage. A potentially significant number of children who will be allowed to be covered under the amended law will not be “dependents” for purposes of the provisions of the Internal Revenue Code related to group health coverage. For instance, any child who is 19 or older during the calendar year, is not a full time student, and does not receive at least half of his/her support from the employee, will not be a dependent for the purposes of the Internal Revenue Code.

If an individual covered under a group health plan is not an employee’s spouse or “dependent” (as provided in the Code), coverage for that individual cannot be provided on a pre-tax or tax-favored basis. In other words, if the employer pays for, or provides the coverage, the value of the coverage provided to the non-dependent individual must be imputed as income to the employee. To the extent an employee is responsible for all or a portion of the cost of coverage, the employee cannot pay for the coverage on a pre-tax basis through the employer’s cafeteria plan.

As a result, employers will need to monitor the status of the children covered by their plans to ensure the coverage provided under the plan is treated appropriately for income tax purposes.

Indirect Impact of Amendment – Benefits Under Reimbursement Arrangements

If you are an employer who has adopted health reimbursement arrangements (HRAs), or are funding HSAs, the amendment to the statute also impacts these arrangements.

Under an **HRA**, for example, an employee may receive reimbursement for expenses incurred by the employee and the employee's spouse and dependents. "Dependent" for this purpose means an individual who is a dependent under the Internal Revenue Code. Expenses incurred by children who are not dependents under the Code generally cannot be reimbursed by an HRA. Accordingly, if a child covered under the major medical coverage is not a dependent under the Code and incurs an expense that is applied to the deductible, the expense cannot be reimbursed through the HRA. In some arrangements, expenses not covered by the major medical plan are automatically submitted by the carrier or third party administrator ("TPA") to the employer's HRA. A claim applied to the deductible constitutes an eligible expense under the HRA and, therefore, is automatically reimbursed. In these types of arrangements, the carriers and TPAs may need to modify their systems to ensure expenses for children who are not dependents under the Code are not automatically reimbursed by the HRA.

Under an **HSA**, the HSA owner may take a tax-free disbursement from his/her HSA for expenses incurred by the HSA owner's spouse and dependents. "Dependent" for this purpose means an individual who is a dependent under the Code. For those employees using an HSA to reimburse expenses denied due to the deductible under the employer's high deductible health plan, any distributions taken to reimburse expenses incurred by children who are not dependents under the Code will be taxable.

Employer Action Items

1. Ensure the medical, dental, and vision plan documents and descriptive documents are updated effective January 1, 2008 to include the revised definition of dependent under Minnesota law.
2. Institute a procedure to determine whether children enrolled in the group health plan are dependents for purposes of the Internal Revenue Code by, for example, using a certification of dependent status form.
3. Establish a process to ensure the value of coverage provided to children who are not dependents for purposes of the Code is imputed as income to the employee at the end of the year (if employer paid) and/or is collected from the employee on an after-tax basis (if employee paid)
4. If you sponsor an HRA that received claims automatically from the carrier or TPA providing or administering the major medical coverage, contact the carrier or TPA to address whether it will be implementing procedures to ensure the HRA does not reimburse the expenses of a child who is not a dependent under the Code.
5. If you sponsor a high deductible plan compatible with an HSA, inform your employees enrolled in that plan about the consequences of taking a disbursement to reimburse expenses incurred by a covered child who is not a dependent under the Code.

As a valued employer to Corporate Health Systems, Inc., we want to inform you of the impact this amendment will have on you and your employees. We are working to confirm the handling of the SPD's with the local carriers as well as processes and procedures you can implement to fulfill the above action items. Please look for further updates and communication as it becomes available.

Should you have questions please feel free to contact your Client Relations or Sales Representative at 952-939-0911.

Sincerely,

Melissa Boser

Melissa Boser
Director of Consulting Services
Corporate Health Systems, Inc.