

GETTING ON TRACK WITH HEALTH CARE REFORM: STOP, LOOK, AND LISTEN



On June 28, the United States Supreme Court issued its long-awaited opinion on the Health Care Reform laws enacted back in 2010. In a very complicated decision, the Court upheld the constitutionality of Health Care Reform. The result of this historic decision is that employers, individuals, and health care providers are still subject to all of the Health Care Reform requirements, both those currently in effect and those that will become effective in the future.

What does this mean for you as an employer? It means that it's time to get back on the Health Care Reform train before it leaves the station without you! So what should an employer pack for the short trip to get to the end of 2012 and beyond?

Lucky for you, a Health Care Reform tour director is here to help! This handy checklist can serve as your boarding pass to comply with the requirements of Health Care Reform effective in 2012 and 2013.

- **Requirement:** W-2 Reporting of Value of Health Insurance Coverage Through Employer's Plan
- **What does it look like?** Employers must include in Box 12 of the 2012 W-2, with code DD, the value of coverage during 2012.
- **Do I need to bring it?** Employers required to file fewer than 250 Form W-2's for 2011 are exempt from this requirement until further notice!
- **Can't it wait?** While the 2012 Form W-2 isn't required to be provided until 1/31/2013, it would be easier for your payroll department if the information was tracked during 2012.
- **Don't forget!** The value of coverage means the total value, not just what the employer contributes towards it.

- **Requirement:** Summary of Benefits and Coverage (SBC)
- **What does it look like?** All group health plans and group health insurers must provide covered enrollees an "accurate summary of benefits and coverage."
- **Do I need to bring it?** If your health plan is fully insured, the carrier must prepare it. If your plan is self-funded, the employer is responsible for preparing it (but most third party administrators will take charge of this).
- **Can't it wait?** SBC must be provided during the first open enrollment on or after 9/23/2012. So, even for a calendar year health plan, open enrollment is coming up soon. Caution - even if there is no true open enrollment, the SBC must still be provided to all eligible employees.
- **Don't forget!** A sample template has been issued (this shows a sample of how the SBC would be completed): <http://www.dol.gov/ebsa/pdf/CorrectedSampleCompletedSBC.pdf>

- **Requirement:** \$2,500 Limit on Flexible Spending Account Contributions
- **What does it look like?** Employee pre-tax contributions to flexible spending accounts cannot exceed \$2,500 per plan year starting with the 2013 plan year.
- **Do I need to bring it?** Any employer-sponsored flexible spending account that reimburses medical expenses is subject to this requirement.
- **Can't it wait?** The limit is effective with the 2013 plan year. The actual amendment to the cafeteria plan can be made as late as 12/31/2014.
- **Don't forget!** Employer "flex credits" do not count toward this limit as long as the employee cannot take these credits in cash.

- **Requirement:** Additional Medicare Tax
- **What does it look like?** Wages that are currently subject to Medicare tax (1.45%) are subject to an additional .9% tax for wages in excess of \$200,000.
- **Do I need to bring it?** If any of your employees have wages for a calendar year in excess of \$200,000, then this additional .9% tax must be applied.
- **Can't it wait?** The new tax doesn't apply until 2013, but your payroll system needs to be ready for it.
- **Don't forget!** This new additional Medicare tax is an employee tax only. Employers do NOT have to match this tax.

Of course, no employer wants to waste time (and money) on something that won't be needed. And it isn't hard to find someone who says that the upcoming elections will make this all go away. However, employers who ignore the Health Care Reform requirements waiting or hoping for repeal do so at great risk. These requirements are effective prior to any inauguration of a new President or convening of a new Congress. Employers are strongly urged to at least take the Health Care Reform train to the next station.



Bio

A shareholder with the law firm of Ruder Ware and a member of its Health Care Focus Team, **Attorney Mary Ellen Schill** is a frequent presenter and author of several articles on Health Care Reform (HCR). She works closely with HR professionals and business owners on how to be proactive and prepared for HCR. Ruder Ware, with offices in Eau Claire and Wausau, is the largest law firm headquartered north of Madison.