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### Inside this issue:

Voucher Provision Repealed	1
SSA No-Match Letters	2
Opt Out vs. Spousal Surcharge	3
CDHPs	3
Supreme Court Rejection	4
Independent Contractor?	4
Benefit Statements	4

## Health Care Reform Insurance Voucher Provision Repealed

The budget deal, reached late on Friday, April 15, 2011, narrowly averted a large-scale shutdown of the federal government after congressional leaders and the Obama administration agreed to a package that cuts about \$38 billion in federal spending.

The health care reform voucher provision was originally inserted in the health care reform measure by Sen. Ron Wyden, D-Ore., as the legislation was working its way through Congress.

"After weeks of closed-door negotiations to keep the federal government open, Free Choice Vouchers were placed on the chopping block even though there is no budget savings from cutting them this year." Sen. Wyden wrote in an article in the Huffington Post after he learned that budget negotiators agreed to repeal the voucher provision.

### How vouchers would work:

Under the provision, employees would have to meet two conditions to be entitled to the employer-funded vouchers: their family income could not exceed 400% of the federal poverty level, and the premium contributions their employers require them to make must be between 8% and 9.8% of their income.

If those conditions are met, those employees would be

entitled to receive a voucher from their employers, and the value of the voucher would not be tied to the plan in which the employee was actually enrolled.

Instead, the voucher's value would be equal to what the employer would pay if the employee were enrolled in whichever of its plans offered the "largest" premium contribution by the employer. Then, the employee could use the voucher to purchase health insurance coverage from a state health insurance exchange.

If the cost of a policy purchased by an employee through the exchange is less than the value of the voucher, the employee could pocket the difference in cash, which would be considered income and taxed.

### Costly for Employers

The provision, to go into effect in 2014, would have a huge and costly impact on employers with large numbers of low-paid workers—such as retailers—who are required to pay a high percentage of the premium. And, depending on how the legislative language is interpreted in subsequent regulations, it also could prove costly to employers that offer employees a choice of health care plans ranging from relatively low-cost to very expensive plans.

Experts say the provision is almost certain to result in adverse selection, inflating employer costs. For example, a young, low-paid employee working for a company with a high concentration of older, less healthy and expensive-to-insure employees likely would receive a voucher whose value would be much higher than the cost of buying coverage in an exchange, especially if the employee purchased a lower-cost high-deductible plan. Under the reform law, exchanges can base premiums on the age of policyholders.

As a result, employees remaining in the employer's plan would be the most costly to insure, pushing up employers' health insurance premium costs. Business lobbyists hailed the deletion. "Employers intensely dislike this provision," said Gretchen Young, Senior V.P. Health Care for the ERISA Industry Committee in Washington.

The employee free choice voucher provision was found in Section 10108 of the Patient Protection and Affordable Care Act was repealed in the "Department of Defense and Full-Year Continuing Appropriations Act, 2011," HR 1473, which was signed by President Obama on April 15, 2011.

Source: Jerry Geisel, Business Insurance

## Social Security Administration Resumes No-Match Letters

The Social Security Administration (SSA) has resumed sending employers no-match letters, Mary Pivec, an attorney with Keller and Heckman, told SHRM in an April 12, 2011 interview. The SSA stopped sending no-match letters after litigation arose in 2007 challenging a proposed no-match rule issued by the U.S. Department of Homeland Security (DHS).

No-match letters are issued by the SSA if an employee's name does not correspond to a valid Social Security number. The no-match proposed rule provided that a no-match letter could be enough to notify an employer that an employee might not be eligible to work in the United States.

The proposed rule provided procedures for employers to respond to the letters in compliance with immigration laws and created a safe harbor for employers that followed those procedures. But the proposed rule was challenged in federal court by unions and business groups and in 2007 was preliminarily enjoined from taking effect. The DHS rescinded the controversial no-match rule in a 2009 final rule.

### Response to Letters

Employers now are left with the question of how to respond to no-match letters in the absence of a no-match rule, Pivec said. The no-match letter, which the SSA calls a decentralized

correspondence (Décor) notice, says that employers do not have to respond to the letter. **However, if employers don't respond, the SSA may refer the matter to the Internal Revenue Service of the Justice Department for criminal prosecution of Social Security fraud,** Pivec cautioned.

She noted that the recently revised DHS M-274 Handbook for Employers does not address how employers should respond to no-match letters. But she pointed out that Immigration and Customs Enforcement officials request copies of SSA no-match letters regularly during I-9 audits.

Employers should give employees whose Social Security numbers don't match their names a reasonable period to resolve a no-match, which Pivec said is 60 to 120 days. It might be appropriate to discharge employees who fail to provide alternate acceptable documentation of identity and work eligibility within a reasonable period, she added.

Employers should not ignore the letters, she cautioned. When the no-match letters come in, note the date they arrived and have an action plan on how to respond. Employers should not allow individual managers who receive the letters to make ad hoc decisions in response to the letters but instead should have the letters referred to HR for investigation and tracking with the advice of general

counsel.

Once HR knows about the receipt of a no-match letter, it should make sure that the no-match didn't result from a type or other mix-up in its own records.

In a unionized setting, employers will have to notify the union about the no-match and make the union part of the solution, Pivec added.

People who might receive the letters include the chief financial (CFO), a tax preparer and an outside accounting firm. Because HR probably will not be the recipient, HR should contact the CFO now to let him or her know the letters might be coming in and to refer them to HR, she recommended.

**The resumption of SSA no-match letters became effective as of March 22, 2011,** but employers are only just beginning to receive them. "It takes a long time to queue up these mailings," she remarked.

The resurfacing of the letters puts employers "right back where we were" before DHS issued its proposed no-match rule, Pivec said, except, she added, employers "are better informed now about the consequences of ignoring them."

Source: Allen Smith, J.D. SHRM

## Opt-out Credit vs. Spousal Surcharge: Matter of Perception

Many of us remember when employers provided an opt-out credit to employees who did not enroll in their medical coverage. Over time, as health care costs continued to rise, the opt-out credit was the first to go in most organizations. Then some employers, in an effort to control costs, began to replace the opt-out credit with a spousal surcharge. But is the opt-out credit poised for a return?

The opt-out credit provides employees with additional cash in their paychecks if they do not enroll in them. The spousal surcharge does the reverse—tacks on additional cost to employees for enrolling a spouse into the employer health plan if the spouse has other coverage available to them.

With health care costs continuing to rise, the idea behind both concepts is to lower your health care costs by having fewer people on the plan. But does the opt-out credit send a better message to employees than the spousal surcharge?

Employees view the opt-out credit as an incentive. If both spouses work and one employer provides an opt-out credit but the other does not, chances are pretty good that the employee with the opt-out credit available will choose to waive coverage, take the credit and enroll in the spouse's plan.

While employers mean for the spousal surcharge to be an incentive for spouses to enroll in their own plan, this is not the perception most employees have. Most employees see it

as the employer just charging them more money and feel the employer does not care about their family's well-being.

### Better Perception, Better Results

The opt-out credit not only provides a better employee perception but it also provides the employer offering it with better results—they get to subtract two enrollments (employee and spouse) instead of one.

In the case of a family enrollment, the results are even better for the opt-out credit if the entire family goes onto other coverage. In that case, the employer with the opt-out credit could save three, four or even more enrollments into the plan.

Of course, employers don't

want workers to forgo coverage just to make an extra buck in their paycheck. It may be wise to require proof of other coverage.

Consider this—the average health insurance plan may be \$5300 per year for an employee, \$11,700 for an employee plus their spouse, and \$17,500 for an employee plus their family. For a \$1,000 opt-out credit, employers are saving a good chunk of change for every employee who takes it and gaining employee goodwill in the process.

The opt-out credit may just begin to see a comeback.

**Source: Employee Benefit News**

## Rand Study: CDHPs Don't Hurt the 'Medically Vulnerable'

People who are medically vulnerable—those with low incomes or chronic health problems—who enroll in high-deductible, consumer-directed health plans (CDHPs) are at no more risk for cutting back on needed health care than others who enroll in the plans, according to a new Rand Corp. study.

The findings, from the largest study to examine the effects of plans that combine a high deductible with personal accounts, contradicts some earlier smaller studies that found medically vulnerable individuals cut back more than other people enrolled in these plans.

The project examined the first-year experiences of more than 360,000 families throughout the U.S. who enrolled in CDHPs offered by their employers from

2003 to 2007. The study, conducted with consulting firm Towers Watson, was published online by the journal Forum for Health Economics & Policy.

### Key Findings

In almost all cases, the study found, CDHP benefit designs affected low-income populations and the chronically ill to the same extent as non-vulnerable populations. These effects included:

- Significant reductions in overall spending that increase with the level of deductible.
- Greater reductions for high-deductible plans when paired with health savings accounts (HSAs) in comparison to health reimbursement arrangements (HRAs).

“One important issue is whether high-deductible health plans will leave low-income and chronically ill patients with inadequate access to health care,” said Amelia Haviland, lead author of the study. “We did not find greater cutbacks for medically vulnerable families. The evidence suggests that non-vulnerable families, low-income families and high-risk families are equally affected under high-deductible plans.”

For all populations, enrollment in CDHPs led to reductions in some care that is considered beneficial though not essential, which could have greater health consequences for low-income and chronically ill people. However, other studies have noted high levels of unnecessary over utilization of health services under low-deductible health plans and

escalation above the general inflation rate.

### Design Considerations

The Rand study provided new findings about CDHP designs that have the greatest impact on reducing costs. High-deductible plans coupled with HSAs reduced spending by a greater amount than high-deductible plans with HRAs, high-deductible plans with no accounts and plans with moderate deductibles.

“The great spending cuts seen with health savings accounts is consistent with the stronger incentive to save that are created with these types of accounts,” Haviland said.

**Source: J.P Morgan**

## Supreme Court Rejects Bid to Hear Health Care Challenge



The Supreme Court on April 25, 2011 rejected a request by a Virginia official for quick review of the constitutionality of the federal health care overhaul, ensuring the battle will play out first in lower courts.

The high court's order was issued with no recorded vote or public dissent. All nine justices apparently participated in the case. It would have been highly unusual for the justices to take up the dispute without at least one lower appeals court ruling

first.

Virginia Attorney General Ken Cuccinelli had urged the justices to step in to resolve conflicting trial court opinions on constitutionality of the provision that requires, beginning in 2014, that people buy insurance coverage or face a tax penalty. Lower U.S. district courts have split on whether Congress had the authority to pass the individual-insurance mandate included in the sweeping legislation that became law in March 2010.

Source: USA Today

## How do I determine whether a worker is an independent contractor or an employee?



As an employer, it is very important to properly classify the workers you hire as independent contractors or employees. This affects how much you pay in taxes, whether you need to withhold from your workers' paychecks and what tax documents you need to file.

### Common Law rules

The IRS uses three characteristics to determine the relationship between businesses and workers:

- **Behavioral Control** covers facts that show whether the business has a right to direct or control how the work is done through instructions, training or other means.
- **Financial Control** covers facts that show whether the

business has a right to direct or control the financial and business aspects of the worker's job.

- **Type of Relationship** relates to how the workers and the business owner perceive their relationship.
- There is no set number of factors (or any one factor) which automatically classifies a worker—you must consider the entire relationship and evaluate the degree of control and independence.

### Let the IRS Decide

Both employers and workers can ask the IRS to make a determination on whether a specific individual is an Independent contractor or an employee by filing Form SS-8, Determination of Worker Status, with the IRS.

Source: NFP

## Benefits Statements Can Spotlight Hidden Value

Do your employees know the true value of their benefits packages? Most don't. Benefits statements can help employees understand their benefits better and can help employers get more recognition for one of their biggest investments.

Estimates show that benefits constitute 30 to 40 percent of an employee's total compensation package. Yet most employees don't have any idea how valuable their benefits are as part of their overall compensation.

"A solid benefits package is a plus—but only if employees know and understand what their employer makes available to them," said Marianne Adams, Assistant Vice President of Enrollment Services at Colonial Life & Accident Insurance Co. "Benefits statements are helping many employers today get greater value from the benefits they provide."

### An Education Tool

Benefit statements offer a snapshot of an employee's total compensation, including a list of benefits for which the employer pays all or part of the cost. By listing standard benefits such as health coverage and life insurance, as well as vacation time, parking, wellness center memberships and any voluntary benefits offered, these statements helps employees see their "hidden paychecks" - the dollar value of the benefits that constitute their total compensation package.

"Too many employees today don't really understand their benefits packages," Adams said. "therefore, they have no idea how much their benefits are worth or don't consider their value when looking at their total compensation." *A Harvard business Review Analytic Services* survey report pointed out the need for improved benefits communication?

- Just 43% of HR leaders say their employees are satisfied with their benefits.
- Even fewer (30%) believe that their employees are satisfied with their benefits communication.

**Interested in benefit statements for your employees? We can get you started....give us a call today at 270.793.0367 or email [msweetman@isbgky.com](mailto:msweetman@isbgky.com)**