HR insider bulletin

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Compliance Alert!

Congress Overhauls HSAs to Promote Participation in 2007

by **Sharon Ongerth**, Fisher & Phillips LLP

ON DECEMBER 9, Congress approved the Tax Relief and Health Care Act of 2006 (the Act), which contains a number of tax provisions, including several designed to improve consumer-driven Health Savings Accounts (HSAs). The President is expected to sign the bill into law shortly.

The following highlights some of the Act's provisions which will make HSAs more accessible to individuals and likely boost participation in HSAs:

HRA, FSA Rollovers Permitted to Fund HSAs **--** The Act will permit a one-time rollover of unused funds from Health Reimbursement Arrangements (HRAs) and Flexible Spending Accounts (FSAs) to fund HSAs. The transfer may be made on the first day after the date the bill becomes law and must be made before Dec. 31, 2011. The rollover amount cannot exceed an amount equal to the lesser of: (1) the balance in the health FSA or HRA as of the date the bill is signed into law; or (2) the balance in the health FSA or HRA as of the date of the distribution.

One-Time IRA Rollover Permitted

The Act will permit individuals to make a one-time, tax-free transfer of Individual Retirement Account (IRA) funds into an HSA. However, the transfer is limited to the HSA maximum deductible contribution limit that is in effect on the date of the transfer. In addition, individuals will not be able to claim a deduction for the amount contributed from an IRA *(Continued on back)*

Four Cornerstone Goals

Leavitt Asks Employers to Commit to Healthcare Quality, Cost Criteria

HEALTH AND HUMAN SERVICES (HHS) secretary Michael Leavitt is asking employers throughout the nation to commit to four steps to improve healthcare quality and reduce health costs by improving information in the healthcare sector:

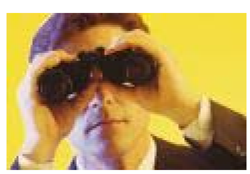
(1) Support the use of health information technology; (2) Increase transparency for quality care at competitive prices; (3) Increase transparency in pricing; and, (4) Create positive incentives.

President Bush issued an executive order earlier this year directing certain federal healthcare programs to begin taking steps towards achieving the same four goals in 2007. Getting private employers involved is critical because they are the largest source of health coverage for Americans. Leavitt is encouraging health insurance plans, third-party administrators, providers, and others with whom they contract to take consistent actions to achieve the goals as well. Leavitt's goal is to have more than 60 percent of the marketplace include the four cornerstones as a significant part of their purchasing criteria by next spring.

Leavitt also released an *Employer Tool Kit* which provides recommendations for employers to move forward on the four voluntary initiatives and assists them in using their purchasing power by collaborating with health plans to advance the goals of the Executive Order. The kit is available at http://www.hhs.gov/transparency/employers/. ■

Ailing, Unsustainable System

New Year To Bring Healthcare Changes



WHETHER WE stand on the inside of the health industry looking out, or outside looking in – the current state isn't sustainable, and major change is required, according to research by PricewaterhouseCoopers (PwC).

"Our survey found a disconnect between what the American people, policymakers, and industry think is wrong with our nation's health system and how to fix it," says David Chin, MD, partner and leader of PwC's Health Research Institute. "This disconnect must be addressed before real progress can occur."

As a result, PwC's report*, The Top Seven Health Industry Trends of '07*, identifies the following areas of concern: *(Continued on back)*

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to an HSA. Furthermore, the maximum contributions that could be made to an HSA for the year will be reduced by the amount of any funds transferred from an IRA.

***Comparable Contributions* --** The Act will also increase the contribution limits placed on HSAs. Under the current law, the maximum contribution is the lesser of: (1) the annual deductible of the related High Deductible Health Plan (HDHP), or (2) $2,700 for individuals and $5,450 for family coverage. The new law will eliminate the "lesser of" rule so that the maximum contribution will simply be the current statutory amount (*i.e.*, $2,700/individuals; $5,400/family coverage in 2006). Thus, contribution limits will no longer be based on the HDHP deductibles.

***Maximum Contribution Permitted for Those who Join Mid-Year* –** Currently, to be eligible to make contributions up to the maximum contribution limit, an individual must be enrolled in an HDHP for each month of the calendar year. The Act will permit individuals to make the maximum contributiuon so long as they enroll in an HDHP before the end of the taxable year. Accordingly, an individual will be able to make a full-year contribution, even if he or she joins an HDHP mid-year. However, individuals who join mid-year and make the maximum contribution **must** remain enrolled in an HDHP for a full 12 months. Failure to maintain coverage of an HDHP for the full 12-month period will result in a 10% penalty on all contributions made to the HSA.

Except for the provision permitting HRA and FSA rollovers, which will become effective on the day the bill is signed into law, the provisions described above will all become effective Jan. 1, 2007. ■

Ailing, Unsustainable System . . .

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1. ***States take the initiative* –** States are developing creative insurance programs, forming public-private partnerships to spur innovation, and passing legislation to drive greater accountability and transparency. However, without any uniform federal legislation, independent local action on healthcare issues can result in a patchwork quilt of regulations across the country.
2. ***Transparency could be revealing*** – While the health industries will focus on becoming more transparent, government, insurers, and employers need to educate consumers about the availability and use of such information.
3. ***Time to walk the talk on technology*** – In 2004, President Bush challenged the industry to adopt electronic health records (EHRs) by 2014. EHRs enable patient information to be captured, processed, accessed, and shared with greater speed and efficiency, thereby increasing accuracy and patient safety while reducing duplication.
4. ***Consumers take the wheel*** – While employers are embracing consumer-driven plans as a way to temper healthcare costs, higher healthcare costs and less healthy employees are gnawing away at both ends of the productivity equation.
5. ***Price check for pharmaceuticals*** – Drug pricing will come under continued pressure from generics as 42 blockbuster drugs will lose their patents in 2007. Consequently, pharmaceutical companies will have to develop innovative pricing strategies to compete.
6. ***Obesity is the New Smoking*** – There is a culture shift around healthy eating sweeping the United States, and U.S. companies are introducing health and wellness programs to promote weight loss and to combat obesity's impact on chronic health problems.
7. ***Small is big*** – Healthcare will continue to behave like a cottage industry, with a more consumer-friendly model prompting clinicians and large retailers to team up in selected U.S. regions to create retail medicine. Surgery centers and small specialty hospitals will continue to abound. ■

Bulletin Briefs

♦ *Feds Clarify HIPAA Rules for Wellness Rewards in 2007*

Final HIPAA rules allow for companies to provide rewards of up to 20% of coverage costs under qualifying wellness programs. Wellness programs that would **not** have to satisfy any additional standards to comply with HIPAA's nondiscrimination requirements include programs that: (1) reimburse all or part of the cost for a fitness center membership; (2) provide a reward for participation in a diagnostic testing program that does not base any part of the reward on outcomes; (3) encourage preventive care through the waiver of the copayment or deductible requirement under a group health plan; (4) reimburse employees for the cost of smoking cessation programs without regard to whether the employee quits smoking; and (5) provide a reward to employees for attending a monthly health education seminar. Effective Feb. 12, 2007, the final regs apply to plan years beginning on or after July 1, 2007. ■

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