Delay for Exchange Notice and Additional FAQs

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The Departments of Labor, Treasury and Health and Human Services issued an additional set of FAQs regarding the implementation of various provisions under the Affordable Care Act. Below are some of the highlights of the FAQs:

Exchange Notice Delayed

The requirement to provide the Exchange notice by March 1, 2013 has been delayed until the issuance of guidance. The Departments indicate they expect it will be late summer or fall of 2013 before employers are required to provide this notice and that model notices or language will likely be forthcoming. Further guidance is expected.

Non-Integrated (Stand-Alone) HRAs and the Prohibition on Annual Dollar Limits

The FAQs provide some helpful clarification on what does not constitute an integrated HRA.

- An employer-sponsored HRA cannot be integrated with individual market coverage or with an employer plan that provides coverage through individual policies. This design will violate the annual dollar limitation requirements.
- An employer-sponsored HRA may be treated as integrated with other coverage only if the employee receiving the HRA is actually enrolled in that coverage. Any HRA that credits additional amounts to an individual when the individual is not enrolled in primary coverage provided by the employer that satisfies an annual and lifetime dollar limit requirements will violate the requirement.

Fixed Indemnity Insurance

Generally, fixed indemnity insurance is viewed as an excepted benefit and thus not subject to many of the requirements under the PPACA. The Departments recognize that various new policies are coming into the market place purporting to be indemnity policies. Briefly, the guidance states that if the policy pays on a per-service basis as opposed to on a per-period basis, it is in practice a form of health coverage instead of an income replacement policy. Accordingly, it does not meet the conditions for excepted benefits.

- Example: A health insurance policy is advertised as fixed indemnity coverage, but then covers doctors' visits at $50 per visit, hospitalization at $100 per day, various surgical procedures at different dollar rates per procedure, and/or prescription drugs at $15 per prescription. In such circumstances, for doctors' visits, surgery, and prescription drugs, payment is made not on a per-period basis, but instead is based on the type of procedure or item, such as the surgery or doctor visit actually performed or the prescribed drug, and the amount of payment varies widely based on the type of surgery or the cost of the drug. Because office visits and surgery are not paid based on "a fixed dollar amount per day (or per other period)," a policy such as this is not hospital indemnity or other fixed indemnity insurance, and is therefore not excepted benefits

For a copy of the FAQs, visit: http://www.dol.gov/ebsa/pdf/faq-aca11.pdf