

Things I Have Learned:

- ^! That making a “living” is not the same as making a “life.”
- ^! That you can say anything you need to say if it is done in kindness.
- ^! That you can’t hide a piece of broccoli in a glass of milk.
- ^! That you should hope and work, but never hope more than you work.
- ^! That being quiet doesn’t always mean you have nothing to say.
- ^! That you’re never too old to be tucked in.

Changing the Rules cont’d)

Business Groups and Employers. The rule changes will unfairly tip the balance of interests in favor of labor unions; employee informed choice and due process notice required by (the Act) will be compromised, the proposal “would significantly harm businesses by imposing onerous new requirements that interfere with their ability to exercise legal rights and unfairly advantage union and ongoing campaigns “where unions already win 63.8% of representation elections. (Query: “What percentage of union victories should the Act mandate”?)

It is anticipated that this whole Labor Board mess will sort itself out with likely changes in the Board’s composition. A more balanced NLRB is necessary. In the meantime, the deadline for comment on the proposed ended on August 27, 2011 and more than 30,000 comments were filed. Stay tuned!

(Source: BNA, Daily Labor Report, August 24 and September 9, 2011)

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Federal Healthcare Reform for Employers: An Update

The controversial Patient Protection and Affordable Care Act (PPACA), 42 USC 18001, *et seq*, imposes significant (and costly) new responsibilities on employers, and carries with it with a variety of effective dates. PPACA will also require the creation of virtual marketplaces where eligible individuals and employers can comparison shop for health insurance. These market places will be called “Exchanges.”

Some grandfathered plans (those in existence on the date of the Act, March 23, 2010, and have provided notice of their intent), are exempt. However, grandfathered status can be lost by changing insurers, making significant benefit deductions, increasing co-insurance or co-payments, lowering employer contributions to the premium, or adding or reducing annual lifetime coverage limits. It is not lost if cost adjustments to keep pace with medical inflation, adding new benefit changes to comply with state or federal law or changes in third-party administrators. Being part of a CBA ratified before the enactment of PPACA will also allow grandfathered states until the expiration of the last CBA that relates to coverage.

Employer Update: Some provisions of PPACA have already taken effect (applies to both new and grandfathered plans):

- ^! Dependent coverage extended to age 26.
 - Rule does not require employers to cover children of adult dependents.
- ^! Prohibition to rescind or cancel health coverage of an enrollee (except for fraud or intentional misrepresentation), but 30-day notice must be given to an enrollee before cancellation or rescission.
- ^! No lifetime benefit limits imposed on essential health benefits for any participant.
- ^! **New plans** – required to cover everyday services without prior authorization and without in-network requirements.
- ^! Permit a participant to designate a PCP, pediatrician and an obstetrician/gynecologist (OB/GYN) without authorization or referral.
- ^! New group health plans and insurers must cover certain preventative care services without cost sharing, i.e., screenings for blood pressure, diabetes, cancer, HIV, depression, and alcohol abuse.
- ^! **In 2011**, employers required to report the value of health coverage it provides on an employee’s W-2 and OTC drugs are ineligible for reimbursement from a flexible spending account (FSA).
- ^! **In 2012**, all health insurers and sponsors of self-insured health plans, including grandfathered plans, are required to provide a summary of benefits and coverage to enrollees and applicants.
- ^! **In 2013:**
 - PPACA will limit annual contributions to FSA.
 - Will impose an additional 0.9% Medicare payroll tax on employees with annual wage over \$200,000 (\$250,000 for joint filers).
 - Will impose an annual 3.8% tax on unearned (investment) income for individuals with annual income over \$200,000 (\$250,000 for joint filers).
- ^! **Prior to 2014**, both types of plans are prohibited from requiring pre-existing condition exclusions on children under age 19.
- ^! **In 2014**, plans may not impose a pre-existing condition exclusion on any participant (not just children).
- ^! **In 2014**, annual dollar limits on essential health benefits prohibited for all plans.

While there is no mandate for individuals to obtain coverage or for large employers to provide coverage under the PPACA, there is strong incentive for both to do so.

- ^! **In 2014**, individuals will be penalized if they do not have the minimum essential coverage, and the annual penalty will increase yearly.
- ^! Large employers will be assessed penalties if they fail to offer coverage, offer only unaffordable coverage, or offer coverage that does not meet minimum value standards.
- ^! **Also in 2014**, there will be a prohibition on excessive waiting periods; they cannot be longer than 90 days for any individual to receive health benefits.
- ^! **In 2018**, a 40% excise tax will be imposed on employer sponsored high-cost “Cadillac” plans. The tax will be assessed against the amount of the plan in excess of dollar caps specified by the PPACA.

This is a very costly law and the financial burden on employer and employee alike in the form of taxes and assessments, and, of course, obtaining cost-effective coverage, may be staggering.

(Source: Catherine Derthick, Plunkett Cooney, Labor and Employment Law Notes, Labor and Employment Law Section, State Bar of Michigan, Summer 2011.)

Quotes Of The Month

“Life is like wrestling with a gorilla. You don’t stop when you get tired, you stop when the gorilla gets tired.”
~Anonymous

“If you don’t know where you’re going, when you get there you’ll be lost.”
~Yogi Berra

“If you learn from defeat, you haven’t really lost.” ~Zig Ziglar

“Fool me once, shame on you; fool me twice, shame on me.” ~Chinese proverb

“First we will be best, and then we will be first.” ~Grant Tinker

“If a man will not work, he shall not eat.” ~2 Thessalonians 3:10

