

COBRA Twists and a Silver Lining in W-2 Reporting Guidance

In January, the IRS issued updated and expanded guidance on the requirement that employers report on employees' W-2s the cost of group health coverage (IRS Notice 2012-9).

In general, employers subject to the reporting requirement must include, in box 12 of the Form W-2 using code DD, the aggregate cost of employer-sponsored group health coverage for the year. Most employers that provide group health coverage during a year are subject to the reporting requirement, although there are some exceptions. Notably, employers that are not required to provide COBRA coverage are still subject to the reporting requirement as long as they provide group health coverage. However, the following employers are exempt from the reporting requirement: (1) those that are required to file fewer than 250 Form W-2s for the preceding calendar year; and (2) those that provide only self-insured group health coverage that is not subject to COBRA's coverage rules.

If an employer maintains more than one type of group health coverage, then the reporting requirement still does not apply to any coverage provided under a self-insured group health plan that is not subject to COBRA. The reporting requirement may apply, however, to the other types of group health coverage maintained by the employer.

As a result, employers that are not subject to COBRA need to consider whether they may be subject to the reporting requirement. Nevertheless, it seems likely that most smaller employers not subject to COBRA will also be exempt from the rule.

The cost of health coverage that is to be reported on Form W-2 is the aggregate cost of that coverage, which is determined under rules similar to the rules for determining the "applicable premium" for purposes of COBRA coverage. The new guidance actually provides three methods for calculating the reportable cost of coverage:

1. the premium charged method;
2. the COBRA applicable premium method; or
3. the modified COBRA premium method.

What This Means For Counties

The group health coverage reporting requirement is undisputedly a new burden on employers. As mentioned, employers must determine which benefits the reporting requirement applies to, using a different analysis than employers use for determining which benefits are subject to COBRA. It also raises the stakes for this determination, because penalties apply if the reporting is not done correctly. The silver lining is that employers should be able to use their current COBRA premiums to determine the reportable cost, which should make the new burden slightly easier to bear. For more information on this reporting requirement, employers and administrators should consult with their employee benefits advisors.

For more information, contact CTSI at 303-861-0507.