

STATE AND FEDERAL REQUIREMENTS FOR DEPENDENT AGE COVERAGE

State Law: Last July, the legislature passed and the governor signed a law requiring health plans to offer to extend coverage to dependents until age 28. This law will become effective July 1, 2010, for all plans issued or renewed in Ohio on or after that date. For example, an employer renewing a health insurance policy June 15, 2010 will not be affected immediately, whereas an employer renewing on July 15, 2010 will be affected on that date.

Federal Law: In addition to the state changes, the federal law regarding dependent coverage changed pursuant to the recently passed health care reform package. The federal law takes effect September 23, 2010 and requires coverage for dependents until age 26. Additionally, the federal law makes changes to the tax code allowing premiums paid for older dependents to be non-taxable income to the employee. It appears that those employers not immediately affected by the state law, could be affected by the federal law before the state law. More information will follow on implementation of the federal law once rules and guidance from the federal agencies are released.

IMPLEMENTATION

State Law: The state law will become effective on July 1, 2010. Any health insurance contract issued or renewed on or after that date will be affected (this does NOT apply to self-insured plans, unless it's publicly funded). To qualify for the new coverage dependents must:

- Be unmarried
- Be the natural child, stepchild, or adopted child of the employee
- Be a resident of Ohio **OR** a full-time student
- Not have access to health insurance from an employer, Medicaid or Medicare

Current law continues to be in effect allowing indefinite coverage for dependents who are both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) primarily dependent upon employee for support and maintenance.

The new Ohio law **DOES NOT** require employers to do ANY of the following:

- Offer coverage to dependents of "older" dependents
- Pay for any part of the premium for "older" dependents
- Offer any dependent coverage at all (i.e. the employer may choose to only cover employees)

Tax Implications: There are additional tax implications to *employees* as a result of these dependent changes, of which employers should be aware:

- If the dependent is considered a dependent for tax purposes (currently 19 or 24 if full time student or age 26 once the new federal law becomes effective) there are no additional tax liabilities
- If the dependent falls outside of the IRS definition of dependent, the cost of the premiums for the "older" dependent is considered taxable income to the employee federally, but not in Ohio.

Important Note about Implementation: Until the federal law takes effect, it is permissible for employers to choose to continue paying for "traditional" dependent coverage as they do today, and require employees to pay the full premium for any "older" dependent coverage. At this point, it is unclear whether the federal law requires *employers* to pay for dependent coverage to age 26 or if the health plan is just required to *offer* the coverage to dependents to age 26, similar to the Ohio law. Guidance from the agencies responsible for implementing this provision will hopefully provide more insight on this issue.

All the information contained on this page is for general purposes only and should not be considered legal advice. For specific information regarding how these provisions pertain to you, please contact your attorney.