COMPLIANCE **ALERT**

CORPORATE SYNERGIES®
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Congress Poised to Pass Telehealth Extension and Sweeping Changes to ACA Rules

December 20, 2024

Action Required:

Monitor if these bills develop into law.

Monitor approved telehealth provisions to ensure HDHP enrollees do not lose their HSA eligibility.

Ensure reporting is completed properly and timely.

On December 10, 2024, Congress passed two bills seeking to overhaul the current process for Affordable Care Act (ACA) information reporting - H.R. 3797, the Paperwork Burden Reduction Act (PBRA) and H.R. 3801, the Employer Reporting Improvement Act (ERIA), which both set in motion changes to the reporting standards under the ACA that ease these requirements on employers.

Additionally, On December 17, 2024, Congress introduced a funding extension bill, the Further Continuing Appropriation and Disaster Relief Supplemental Appropriations Act, to prevent a government shutdown, which includes, among other provisions, an extension to the COVID-era telehealth relief available to high deductible health plans (HDHPs) (discussed in our recent E-Alert here).

If President Biden signs these bills into law, which he is expected to do, these requirements will look significantly different going forward.

How Do These Bills Change the Law?

Starting with the most anticipated change, the COVID-era relief for HDHPs to provide first dollar coverage for telehealth care while still maintaining the plan's qualified HDHP status and health savings account (HSA) eligibility, is set to be extended. As background, Congress passed the CARES Act in March of 2020 during the COVID 19 Pandemic, part of which provided for HDHPs to cover telehealth services at 100% (without application of the deductible) for plan participants while still maintaining the plan's qualified HDHP status. The CARES Act allowed this first-dollar coverage through the end of 2021, which was then was renewed in April of 2022 through the Consolidated Appropriations Act of 2022 (CAA 2022), and was then renewed again with another extension through the Consolidated Appropriations Act of 2023 (CAA 2023) until January 1st of 2025. The latest extension was set to expire at the end of this year, but now will likely be extended for two years (until January 1, 2027), as a part of the Further Continuing Appropriation and Disaster Relief Supplemental Appropriations Act.

Regarding the ACA reporting bills, as background, there are currently requirements in place under the ACA's Employer Shared Responsibility (ESR) rules, and rules for reporting information about employer provided coverage, such as rules on determining and reporting affordability, and whether the coverage is considered Minimum Essential Coverage (MEC) and Minimum Value (MV).

Currently, employers are required to provide paper copies of the Forms 1095-B/1095-C to all full-time common law employees. The PBRA, assuming it is signed into law, would allow employers to provide copies of the Forms 1095-B/1095-C only to employees who request it. This has the potential to save employers money on distribution costs.

Additionally, the ERIA allows for the electronic delivery of the Forms 1095-B/1095-C, rather than the paper delivery currently in place.

Further, under the current rules, employers are required to use the employee's Tax Identification Number (TIN), most commonly the employee's social security number, within the Forms 1095-B/1095-C. Now, assuming it is signed into law, the ERIA will allow the employer to use an employee's birthday in lieu of their TIN when that information is not available.

Lastly, under current rules, if an employer receives an ESR penalty assessment due to the failure to offer MEC to at least 95% of full-time eligible employees, or due to the coverage not being considered MV or affordable, employers must respond to the penalty assessment letter within 30 days. The ERIA provides a longer response time to an ESR penalty assessment—90 days.

What Happens Next?

These bills will likely soon be passed to the president to be signed into law. It is widely believed that President Biden will sign these bills and they will soon become law. Unfortunately, there is no timeline at the moment for when these bills might become law, so it will be important to monitor the status of these bills.

What Should Employers and Plan Sponsors Do Next?

Employers and plan sponsors should monitor how these bills develop and when they become law, but once they are signed into law, employers should reexamine their ESR reporting procedures to ensure they are running in the most efficient manner. Additionally, employers should continue to monitor the approved telehealth provisions to ensure HDHP enrollees do not lose their HSA eligibility. Finally, employers should communicate with their benefit consultants as well as their ACA reporting vendors to ensure reporting is completed properly and in a timely manner.

If you have any additional questions, call your Corporate Synergies Account Manager or 866.CSG.1719.