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April, 2011

Black, Gould & Associates, Inc. Legislative Update

Form W-2 Reporting Guidance

The interim final regulations regarding W-2 reporting to employees the cost of their employer-sponsored group health coverage were recently released. These regulations are now in their comment period. Comments must be submitted within 90 days.

- A.** The guidance confirmed this is for information only and does not cause employer-sponsored health coverage to become taxable.
- B.** The reporting requirement is for 2012 W-2 forms and is not required for any forms furnished to employees prior to January 2013.
- C.** The guidance included additional transition relief for smaller employers that file fewer than 250 W-2 forms for 2011. These employers will not be required to report the cost of health coverage on any forms required to be furnished to employees prior to January 2014.

PPACA 1099 Provision Repealed

The U.S. Senate voted overwhelmingly to repeal the 1099 provision of the Patient Protection and Affordable Care Act. The House had taken this same action earlier this year. President signed this legislation on April 14th.

Early Retiree Reinsurance Program Ending

CMS issued notice "Early Retiree Reinsurance Program." This notice announces that the ERRP will no longer accept new applicants after April 30, 2011. The ERRP was provided for by section 1102 of the Affordable Care Act, and was planned to provide early retiree health coverage for enrolling employers through 2014.

ERRP will exhaust its \$5 billion in funding earlier than expected. In order to fund the retiree coverage of current enrollees through 2014 it became necessary to close the application period.

Claims & Appeals Grace Periods Extended

The Departments of Labor (DOL), Health and Human Services (HHS), and Treasury (the Agencies) issued Technical Release 2011-01 (TR 2011-01) on March 18, 2011. This Release extends a previously established grace period for compliance with certain new internal claims and appeals provisions. TR 2011-01 now extends the enforcement grace period for most of the same provisions until plan years beginning on or after January 1, 2012.

The components included in this extension include:

- Notices must be provided in a culturally and linguistically appropriate manner.
- Timeframes for making urgent care claims decisions.
- Strict compliance requirements or plan participants will be able to initiate certain expedited appeal rights.
- Automatic disclosure of diagnosis and treatment information.

The enforcement grace period will be extended with respect to the other disclosure requirements until the first day of the first plan year beginning on or after July 1, 2011.

The disclosure of information sufficient to identify a claim:

- The description of available internal appeals and external review processes.
- The disclosure of the availability of, and contact information for, an office of health consumer assistance program or ombudsman for plans and issuers in states in which one is established.

PPACA Free Choice Vouchers Repealed

When President Obama signed the federal funding bill on April 15th, this legislation eliminated the third prong of employer penalties in PPACA, the "free choice vouchers."

This information is not intended to be, nor should it be construed as legal or tax advice. We are not authorized nor do we purport to provide tax or legal advice and this should not be viewed as a substitute thereof. It is intended merely as an educational tool.

As always, feel free to contact me with any questions at ruthann.laswick@blackgould.com.

Sincerely,

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