

BenAlert

BENEFIT TRENDS AND LEGISLATIVE UPDATES

FEBRUARY 2011



HOWITT
Benefit Services

Howitt Benefit Services is pleased to provide you with periodic updates on benefit trends and legislative updates. As part of our valuable services, we want to ensure that you are in compliance and well-informed of the ongoing changes in our industry.

In this BenAlert:

- Overage Dependents: California Issues New Guidance

Overview

In our Open Enrollment meetings when we discuss Federal Healthcare Reform, employees are pleased to hear that their overage dependents up to age 26 are eligible to enroll on their healthcare policy. However, they are “surprised” to learn that California is entitled to imputed income state tax based on the cost for medical coverage for their overage dependents.

A few days ago, the California Franchise Tax Board (FTB) and the California Employment Development Department (EDD) published guidance regarding California's nonconformity to the provisions in the Patient Protection and Affordable Care Act (PPACA or Healthcare Reform) that otherwise remove the imputed income tax requirements at the federal level on over-aged dependents up to age 26.

The California legislature has also introduced [AB 36](#) for the purpose of conforming with the non-taxability provisions in PPACA for coverage provided to adult dependents through age 26. The California Unemployment Insurance Code Section 931 also will treat the cost of coverage as wages for unemployment tax purposes. AB 36, if passed and signed by Governor Brown, would be retroactive to March 30, 2010 but effectively applying on the first day of the first Plan Year in which the adult dependent coverage became available (on or after September 23, 2010).

The purpose of this Ben Alert is to provide you with notice of these significant developments. Should the legislature pass AB 36, we will prepare a recommended Action Plan.

The Franchise Tax Board Guidance

“California law has not been amended to conform to the 2010 federal income tax rules which exclude the value of the medical coverage provided to nondependent adult children from California gross income and allow a deduction to self-employed individuals for health insurance premiums for nondependent adult children under age 26. For California income tax purposes, the fair market value of employer-provided medical coverage for some adult children in excess of the amount paid by the employee for such coverage may result in taxable income to the employee. Any amount paid by an employer for such additional coverage is excluded from federal, but not California taxable wages.

- The additional income is reportable and taxable to the employee, not to the adult child.
- The amount of income included in taxable wages is equal to the amount by which fair market value of the taxable benefit received by an employee exceeds the amount the employee pays for the benefit.

In addition, self-employed individuals may not deduct the health insurance premium paid for an adult child under age 26 who is not a dependent.”

[http://www.ftb.ca.gov/professionals/taxnews/2011/February/Article_10.shtml]

The EDD Guidance

“Typically, employer-provided health insurance premium payments for an employee or their qualified dependents under an employer’s health plan are not subject wages per California Unemployment Insurance Code (CUIC) Section 931.

Although the new federal rules consider a nondependent adult child to be a qualified dependent, California law does not. Therefore, the portion of the insurance premium attributable to the nondependent adult child would be wages and subject to all California state payroll taxes.

Reporting the insurance premium wage amount will be different for California and Federal wages on the 2010 W-2. For California purposes, the income to the employee would be the difference between the insurance premiums paid including the nondependent adult child and the amount that would have been paid without the adult child. This difference will be additional California State wages and included in wages reported in Box 16 of the employee’s W-2. For example:

Premium including nondependent adult child	\$987
Premium excluding nondependent adult child	\$683
Additional wages to be included in W2, Box 16	\$304”

[http://www.edd.ca.gov/payroll_taxes/Nondependent_Adult_Child_Health_Care_Premiums.htm]

This is a good time to send your legislator a note telling them how you feel about how our state is handling this situation.

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