GBS COVID-19 Update

Emergency COVID-19 Relief Act of 2020 Includes No Surprises Act that Prohibits Surprise Emergency OON Bills / FSA Optional Changes

The evolution of the COVID-19 epidemic is constantly evolving. The information in this document is based on what known at this time. As things change, we will continue to update you as it affects employee benefits compliance rules.

December 29, 2020

Over the weekend, Congress finally reached a deal on the latest round of COVID-19 legislation. Intended to address the financial burdens of Americans resulting from COVID-19, this new law includes several provisions affecting our industry. Including:

No Surprises Act

Out-Of-Network (OON) bills will be subject to arbitration to mediate unresolved emergency bills provided by OON providers. Additional details provided, although most administrative and operational requirements will be worked out in the development of sub regulatory guidance yet to come. Highlights:

- Covers OON emergency room visits provided at non-network hospital or freestanding emergency room
    - Including services provided by OON providers at an in-network facility
    - OON care provided at in-network facility without the patients' informed consent
    - Air ambulances

The ban on surprise billing for air ambulances is a welcome addition to the Act for any self-funded plans, but does not cover ground ambulances. Read Full Summary Here >

Flexible Spending Account Permitted Coverage Changes

Flexible Spending Account (FSA) and Dependent FSAs can allow:

- Unused amounts from the 2020 plan year to be carried over to 2021
- Unused amounts from 2021 may be carried over to 2022
- Grace periods for plan years ending in 2021 or 2022 may be extended to 12 months after the end of the plan year
- Prospective changes may be made in 2021 to modify employees' FSA and dependent FSA contributions without a change in status, typically required under IRC 125 rules
- Extend eligible age for dependent FSA from age 12 to 13

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Plans must amend plan documents if voluntarily adopting any of these changes by the end of the first calendar year after the plan year in which these changes took effect. A summary of material modification sample is expected soon. Keep in mind, any changes to the FSA carryover, grace periods or an extended coverage period may effect HSA eligibility. Read full summary here >

Mental Health Parity Nonquantitative Treatment Limitations Must be Available for Government Review, Upon Request

Beginning 45 days after enactment of this law, expected Friday, the comparative analysis done (or should be done in written form by plans) to determine the nonquantitative treatment limitations (e.g., step-therapies, day limits, and other non-financial limits the plan paces on participants ability to access certain mental health or substance abuse coverages). Additional guidance is expected. GBS Benefits will provide more details as they become available.

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