



# Legislative Update

April 29, 2010

## Dependent to Age 26 Developments

*HHS Urges Plans to Extend Dependent Coverage:* Health and Human Services (HHS) has sent a [letter](#) urging employers and insurers to voluntarily extend dependent coverage in May to college graduates or young adults whose birthday in 2010 will make them ineligible to continue on their parents' plans. The intent is to help families avoid a potential gap in coverage until the new dependent to age 26 health care reform provision kicks in.

Under the terms of the health care law, the new dependent to age 26 provision takes effect for plan years beginning on or after September 23, 2010. In those states which do not already enable young adults to remain on their parents insured plans until the age of 26, college students could be disenrolled when they graduate from college in May of this year, even though the law would provide them the opportunity to reenroll as of the next annual enrollment (January 1 for calendar year plans). Similarly, those under 26 who are not in college, but who reach an age disqualifying them for coverage under their parents' plan could be disenrolled when they reach that age, even though they have the right to be reenrolled at the next open enrollment.

Some insurers have already agreed to offer a voluntary earlier extension. Employers need to consider the administrative and compliance implications of such a change, and consider whether the availability to extend coverage under COBRA achieves the same result of bridging coverage, but at the employee's expense.

*IRS Releases Guidance on Health Coverage for Adult Children:* The new health care law has amended the Tax Code to provide that employer contributions toward adult dependents' coverage is not considered taxable if they are under age 27. Contributions employees make toward adult dependents' coverage through pre-tax payroll deductions under a cafeteria plan are also considered tax-exempt. The IRS has released [Notice 2010-38](#) that addresses a number of questions regarding the tax treatment of such coverage. Under the new provisions, an employer that voluntarily provides coverage to an adult child through the end of the year in which the child attains age 26 would not need to be concerned about imputing income for such coverage. Coverage and reimbursements under the plan for the adult children will not be considered wages for FICA or FUTA purposes and are exempt from income tax withholding.

Prior to the health care reform law, the Tax Code generally allowed tax-free coverage of employees' children up to age 19, or up to age 24 if the dependent child is a full-time student. The new age 27 rule replaces the lower age limits that applied under prior tax law, as well as the requirement that a child generally qualify as a dependent for tax purposes. Employees who have children who will not have reached age 27 by the end of the year are eligible for the new tax benefit from March 30, 2010, if the children are already covered under the employer's plan or are added to the plan at any time. For this purpose, a child includes a son, daughter, stepchild, adopted child, or eligible foster child. No residency, support, or other test applies.



Employers with cafeteria plans (including a health flexible spending accounts) may immediately permit employees to make pre-tax salary reduction contributions to provide coverage for children under age 27, even if the cafeteria plan has not yet been amended to cover these individuals. Plan sponsors have until the end of 2010 to retroactively amend their cafeteria plan language for this change.

As always, if you have any questions regarding the latest on national health insurance reform, visit the [health reform section on our website](#) or contact your Conner Strong account representative at 1-877-861-3220.

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