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Employee Benefits – Question of the Month

November 2019

Q: We pay 100 percent of our employees' health insurance premiums (for themselves) and 50 percent of the premiums for spouses and children. Our rates are going up substantially for 2020 and we are looking for cost-cutting strategies. One of our owners has suggested that reduce the percentage we contribute toward some family members' coverage, specifically:

1. Pay less for spouses who remain on the plan after they turn 65 (and could go on Medicare)
2. Pay less for dependent children after they turn 22 or graduate from college, whichever is later
3. Pay less for spouses who have access to a group health plan through their own employer

All of these seem reasonable on the surface, but I'm concerned about unanticipated compliance problems. What can you tell me about potential roadblocks for this type of approach?

A: Your instincts are good! The first and second options you listed are definitely problematic from a compliance perspective. First, we do not recommend that clients pay less or stop contributing toward the cost of health coverage for employees or their spouses when they turn 65 and/or enroll in Medicare. This would likely violate the Medicare Secondary Payer rules, (which generally prohibit most employers from providing an incentive for employees to drop their group health coverage when they become eligible for Medicare).

In addition, a similar (but less well-known) rule applies for dependents up to age 26. The Affordable Care Act provides that the terms and conditions on which dependent coverage is provided for children cannot vary based on the child's age, unless the child is age 26 or older. This rule is known as the "uniformity requirement." The regulations provide the following example:

> "A group health plan offers dependent coverage for children of participants who have not attained age 26, but imposes a premium surcharge for covering children who are over age 18. The plan violates the requirement that dependent coverage of children cannot vary based on age (except for children who are age 26 or older) because the plan varies the terms for dependent coverage of children based on age."

However, your third option can generally be done, you just have to be careful about whether it is actually the best decision from the perspective not only of cost savings but plan performance. This issue was addressed in more detail in one of our recent blogs, or you can discuss with your producer or account team.

Feel free to contact me if you have any additional questions at juliea@millercares.com.

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