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The "Total" Advisor

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Summary of Changes to Health Care Reform-First Anniversary Edition

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March 2011 marked the one-year anniversary of the [Affordable Care Act](#) being signed into law--and several requirements have changed since it was first enacted. The following summary provides a look at seven key changes to the provisions affecting employers and employer-sponsored group health plans that took place over the past year. Of particular significance, in case you missed it, was the **repeal of the "1099" reporting requirement** signed by the President in April.



Repeal of Form 1099 Filing Requirement

Changes Announced in April 2011: The requirement that businesses report on Form 1099 all purchases of goods and services of \$600 or more annually is [repealed](#).

Elimination of Free Choice Voucher Requirement

Changes Announced in April 2011: The requirement that employers offering health insurance coverage provide "free choice" vouchers to certain employees for purchasing health care through state-based Exchanges, beginning in 2014, is repealed as part of the [Department of Defense and Full-Year Continuing Appropriations Act of 2011](#).

Early Retiree Reinsurance Program Stops Accepting New Applications

Changes Announced in April 2011: Effective May 6th, 2011, the Early Retiree Reinsurance Program (ERRP) will [no longer accept new applications](#) due to the availability of funds.

Special Health Care Reform Update:
Affordable Care Act's 1099 Reporting Requirement, Free Choice Voucher Provision Repealed



Repeal of 1099 Reporting Requirement

President Obama recently signed into law a bill that removes the expanded "1099" reporting requirement from the [Affordable Care Act](#). The provision would have required businesses to report on Form 1099 all purchases of goods and services of \$600 or more annually.

The bill, officially named the "Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011," makes the following changes to the Affordable Care Act:

- Repeals the expansion of existing requirements that businesses report information to the Internal Revenue Service on payments for goods of \$600 or more annually to other businesses; and
- Increases the amount of overpayment of premium assistance tax credits for purchasing health insurance coverage through state-based Exchanges that will be subject to repayment.

The White House announced the repeal in a [press release](#) issued April 14.

Free Choice Voucher Requirement Eliminated

President Obama also signed into law a bill that eliminates the requirement under the [Affordable Care Act](#) that

The Affordable Care Act provided \$5 billion in financial assistance to help employers maintain coverage for early retirees age 55 and older not yet eligible for Medicare through this temporary reinsurance program designed to last until 2014 (when coverage may be purchased in state-administered exchanges).

Relief from Reporting Employer-Sponsored Health Coverage on Form W-2

Changes Announced in March 2011: The IRS provided further relief for smaller employers filing fewer than 250 W-2 forms by making the requirement to report the cost of coverage under an employer-sponsored group health plan on Form W-2 [optional for them at least for 2012](#) (and continuing until further guidance is issued).

This requirement, set to begin in tax year 2011, was previously made [optional for all employers in 2011](#) last fall.

Enforcement Grace Periods for Select Internal Claims and Appeals Procedures

Changes Announced in March 2011: The Department of Labor [further extended the enforcement grace period](#) for select new standards for internal claims and appeals processes until plan years beginning on or after Jan. 1, 2012.

The Affordable Care Act required non-grandfathered group health plans beginning a new plan year on or after Sept. 23, 2010, to implement an effective internal appeals process for coverage determinations and claims. The enforcement of certain standards was [previously delayed](#) until July 1, 2011.

Nondiscrimination Requirements Delayed for Insured Group Health Plans

Changes Announced in December 2010: The IRS [delayed the requirement](#) that non-grandfathered insured group health plans comply with the prohibition on discrimination in favor of highly compensated individuals, for plan years beginning on or after Sept. 23, 2010, until after regulations or other administrative guidance of general applicability has been issued (so any sanctions for failure to comply currently do not apply).

Group Health Plans May Change Health Insurance Issuers Without Losing Grandfather Status

Changes Announced in November 2010: An [amendment](#) to the original interim final regulations allows employers to offer the same level of coverage through a new issuer and remain grandfathered, so long as the change does not result in significant cost increases, a reduction in benefits, or other prohibited changes.

Previously, one of the ways a group health plan could lose its grandfather status was if the employer changed issuers-switching from one insurance company to another.

Unpaid Internships: What Employers Need to Know About the Fair Labor Standards Act

With summer just around the corner, many employers are preparing to hire seasonal interns. If your company sponsors an internship program, you may be wondering if you are obligated to pay these individuals for work performed for your business during the course of the internship. The following guidelines [provided by the U.S. Department of Labor](#) (DOL) can help you determine whether interns must be paid the federal minimum wage and overtime under the Fair Labor Standards Act for the services that they provide to "for-profit" private sector



employers provide free choice vouchers to certain employees.

Beginning in 2014, employers who offer health insurance coverage would have been required to provide a "free choice" voucher for purchasing health care through state-based Exchanges to qualifying employees:

- Whose household incomes were at or below 400% of the federal poverty level; and
- Whose required premium contributions for the employer's coverage would be between 8% and 9.8% of their household income.

The dollar amount of the voucher would have been equal to the premium contribution the employer would have paid on behalf of the employee under the employer's plan.

The provision was repealed on April 15 as part of the [Department of Defense and Full-Year Continuing Appropriations Act of 2011](#).

For information on the latest developments in Health Care Reform and the requirements for employers under the Affordable Care Act, please visit the HR360 [Health Care Reform](#) section.

Early Retiree Reinsurance Program Stops Accepting New Applications

The Centers for Medicare and Medicaid Services (CMS) [has announced](#) that effective May 6th, 2011, the temporary Early Retiree Reinsurance Program (ERRP) [will no longer accept](#)

employers.

Background

The [Fair Labor Standards Act](#) (FLSA), which sets standards for the basic minimum wage and overtime pay, affects most private and public employment. Unless specifically exempted, workers covered by the FLSA are entitled to a minimum wage of not less than \$7.25 per hour and overtime pay at a rate of not less than one and one-half times their regular rate of pay after 40 hours of work in a workweek.

Covered and non-exempt individuals who are "suffered or permitted" to work must be compensated under the law for the services they perform for an employer. Internships in the "for-profit" private sector will most often be viewed as employment, unless the test described below relating to trainees is met. Interns in the "for-profit" private sector who qualify as employees rather than trainees typically must be paid at least the minimum wage as well as overtime compensation for over 40 hours worked in a workweek.

The Test for Unpaid Interns

There are some circumstances under which individuals who participate in "for-profit" private sector internships or training programs may do so without compensation. This may apply to interns who receive training for their own educational benefit if the training meets certain criteria.

The determination of whether an internship or training program meets this exclusion depends upon all of the facts and circumstances of each such program. The following six criteria must be applied when making this determination:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under close supervision of existing staff;
4. The employer that provides the training derives no immediate advantage from the activities of the intern, and on occasion its operations may actually be impeded;
5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

If all of the factors listed above are met, an employment relationship likely does not exist under the FLSA, and the Act's minimum wage and overtime provisions do not apply to the intern. This exclusion from the definition of employment is necessarily quite narrow because the FLSA's definition of "employ" is very broad.

For a more detailed explanation of the factors used in the test for unpaid interns, please review the DOL [Internship Programs Fact Sheet](#). You may also contact the DOL's [Wage and Hour Division](#), at 1-866-487-9243, for help in determining the employment status of your workers.

Keeping Stress at Work in Check

Stress in the workplace, whether triggered



[new applications](#) due to the availability of funds. ERRP provides reimbursement to eligible sponsors of employment-based plans for a portion of the costs of providing health coverage to early retirees.

The Affordable Care Act appropriated funding of \$5 billion for ERRP and gave the Secretary the authority to stop taking applications for participation in the program based on the availability of funding.

Applications Accepted Through May 5, 2011

Based on the amount of program funding that remained available and the rate at which it was being used to reimburse plan sponsors, CMS concluded that a sufficient number of applications were approved to exhaust the program funding, and it will no longer accept applications for the program after May 5, 2011.

Complete applications must be received on or before 5PM ET on May 5, 2011 to be processed (merely postmarking an application before this date will not be sufficient).

If an application, received by the deadline, is missing information or needs clarification from the sponsor to complete processing, the ERRP Center will contact the sponsor and provide a limited amount of time for a response. If a timely response is not received, the application will be denied.

Additional Information

To read the CMS notice, please [click here](#). For more on the Early Retiree Reinsurance Program, please visit the HR360 [Health Care Reform](#) section and click on the appropriate link in the left-hand

by significant workloads or pressing deadlines, can sidetrack employees and prevent them from doing their best. When workplace stress seems overwhelming, the following are some simple steps for reducing the pressure and increasing employee performance and productivity.

How Managers Can Help Reduce Stress

Consider these ideas to help lower the stress level among your team:

- **Step-Out Complicated Projects.** Dividing a complex project into phases provides specific direction, helps maintain a calm environment, and motivates the team. Daily or weekly to-do lists can also help prioritize tasks.
- **Communicate Regularly.** Recognizing employee achievements can increase confidence, as well as reduce stress related to workloads. Employees may also be able to help identify new ways that they can contribute.
- **Start Delegating.** Allocating an important task to one or more employees, with solid planning and open communication, can reduce the overall stress for a manager.

Tips for Reducing Stress Everyone Can Use

The following are some simple tips everyone can use to reduce stress:

- **Make Time for Meetings and Completing Tasks.** Blocking out the time necessary to complete a task on your calendar is just as important as scheduling time for meetings.
- **Avoid Setting Unrealistic Goals.** Setting achievable goals with reasonable timelines helps your sense of accomplishment grow while your stress level declines.
- **Schedule Time for Exercise.** A regular exercise routine can help lower stress and recharge your batteries for the challenges ahead.

Remember that laughter can be one of the best stress relievers of all. When things start to get too intense, it could be time for a little humor to lighten the load.

For more tips on improving employee performance, check out the HR360 page on [Motivating Employees](#).

Additional FAQs on Affordable Care Act Released

The U.S. Department of Labor (DOL) has released a [new set of Frequently Asked Questions](#) (FAQs) that address various issues related to maintaining status as a grandfathered health plan, including clarification with respect to:

- Circumstances under which employees enrolled in one grandfathered plan or benefit package that is being eliminated



navigation.

may be transferred to another without causing a loss of grandfather status;

- The effect of adopting a plan amendment which would cause a loss of grandfather status in the middle of a plan year; and
- How to determine whether an employer's contribution rate has decreased for purposes of maintaining grandfather status, where the employer makes contributions based on a specific formula and the cost of coverage increases over time.

To view the FAQs, please [click here](#). For more on the Affordable Care Act, including previously released questions and answers, please visit the HR360 section on [Health Care Reform](#).

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