

DEPENDENT ELIGIBILITY AUDITS

Controlling the Cost of Healthcare

CONNER
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BUCKLEW

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With healthcare costs continuing to rise, employers are looking for ways to cut costs. One important thing to consider is who you are covering under your healthcare plan. Making sure your plan covers only those who are eligible can be a huge cost saver. How can you do this? A dependent eligibility audit may be an option. Removing ineligible dependents can save benefit costs for self-insured plans, but can also create savings for insured plans with direct savings on insurance premiums as well as limiting the potential for self-insured benefit liability if an insurer denies coverage based on ineligibility. Consider the following to see if a Dependent Eligibility Audit is right for your company.

WHY AUDIT?

An eligibility audit is a type of voluntary compliance review that compares a plan's eligibility rules to the dependents actually enrolled in the plan. The purpose of a dependent eligibility audit is to identify dependents that should no longer be covered. Examples include children that have met the maximum age limit, divorced spouses, or children impacted by changes in custody arrangements. Removing those ineligible dependents from the healthcare plan can translate into cost savings for employers, especially if eligibility problems are already known to exist. Additionally, by not performing an audit, employers risk non-compliance with ERISA if they fail to comply with plan eligibility rules as provided in plan documents. An audit may also reveal important tax issues.

A CHANGE IN RULES

One important factor to remember is the change in rules for dependent children, based on the new healthcare reform law. For all plan years beginning after September

23, 2010, adult children can be considered dependents until age 26. This includes both married and unmarried children, and student status is not required. So under the post-reform system, employees will no longer have to prove financial responsibility or student status for child dependents. In the past, children could generally be covered only up until age 24, and only if they were a student and not financially independent. While the law expands the definition of eligible dependents, it does not eliminate the need to periodically audit the eligibility of dependents and covered spouses/partners enrolled in your plan. It will still be important to confirm your health plan covers only those who are eligible.



Health reform also includes a rule providing that a group health plan cannot rescind plan coverage with respect to an enrollee once the enrollee is covered, except with respect to a covered individual who has performed an act or practice that constitutes fraud or makes an intentional misrepresentation of material fact as prohibited by the terms of the plan. The plan may not cancel the coverage except with prior notice to the enrollee. What this means is once an enrollee is covered, you will not be able to remove that individual unless they performed an act or practice that constitutes "fraud" or made an "intentional misrepresentation" of material fact as prohibited by the terms of the plan. Ineligible dependents, such as ex-spouses, girlfriends/boyfriends, nieces, nephews, parents, etc. could remain on your health plans if there is not a process in place to retain and maintain your right to remove ineligible. Employers can use the dependent audit process to clearly define what they consider to be an act of "fraud" or "intentional misrepresentation" as well as the dependent eligibility requirements to protect the plan from unintended covered dependents.

PLANNING YOUR AUDIT

The scope and formality of an eligibility audit can vary depending on the plan sponsor's objectives. Some employers will conduct a voluntary audit program followed by random audits. Some employers will institute a more detailed audit of the population. Employee notification should be given at the time the audit process is introduced, providing that any employee who is discovered to have an ineligible dependent enrolled in the plan would be subject to

appropriate actions, including reimbursement of the employer's benefit costs and specified disciplinary action as determined appropriate.

When planning an audit, an employer should consider the following:

- > What message will be communicated to employees and how will it be communicated?
- > Are all plan documents consistent in defining dependents?
- > What will the scope of the audit be and who will perform it?
- > What documents will satisfy proof of eligibility for various types of dependents?
- > How will employees perceive an audit? Are there other employee relations issues that need to be addressed prior to the audit?

One of the most essential aspects of a dependent eligibility audit is employee communication. Employees should be informed in advance of the audit so they can gather the proper documentation. Reminders should be issued frequently throughout the audit period to ensure the highest possible participation rate. Use a familiar method for communicating the message, including your company intranet, e-mails, bulletin board postings, payroll stuffers, etc.

Preparing for a dependent eligibility audit requires cooperation throughout the company. These communication initiatives should include:

- > **Support by Senior management.** This is crucial to the success of your dependent eligibility audit. Senior Executives need to be prepared to answer questions and overcome objections to the audit.
- > **Education of HR and managers.** All details of the audit must be understood by managers and communicated properly. More importantly, they need to be able to communicate why the audit is important and necessary in the first place.

> **Explanation to employees.** Employee communications should explain that the company's health plan exists to provide coverage for employees and their eligible dependents only. The health plan's ability to provide for those who it aims to benefit is significantly compromised when ineligible persons receive benefits.

CONFIRMATION

Under a typical voluntary program, all participants are first asked to confirm that their enrolled dependents meet the definition of dependent set forth in the plan. Employees are given the chance to voluntarily drop those who don't meet the requirements within a designated time. These voluntary programs can be designed to run concurrent with the open enrollment period or can be run at anytime during the plan year. In exchange for this voluntary disclosure, the employer agrees not to penalize past violations of the plan's eligibility rules. Some voluntary programs request responses only from those voluntarily dropping dependents. Others require an affirmative response from anyone retaining enrolled dependents. Plan participants can be required to submit documentation verifying each dependent's status within a designated time. Documents must establish both a dependent relationship and that the relationship still exists. Examples may include:

- > Marriage certificate
- > Domestic partner affidavit
- > Tax status form
- > Medical documentation of disability
- > Adoption papers
- > Legal documents that establish custody, guardianship or foster care
- > Birth certificate

Under either option, the employer can institute a process of conducting periodic and/or random audits on an ongoing basis. If proof of dependent status is missing or inadequate, the employer may impose penalties, terminate coverage, or seek reimbursement for claims paid for ineligible dependents. Most employers choose not to seek reimbursements for past claims, but simply deny coverage to ineligible dependents going forward.

It is important to weigh your company resources against the potential payoff of cost control and ongoing risk exposure when deciding whether a dependent eligibility audit is right for your company. Conner Strong & Buckelew can provide all services associated with the eligibility audit process, including design, communication, execution, follow-up, and ongoing monitoring and auditing.

We suggest employers begin the process by reviewing plan provisions and making certain limited changes in the way they are identifying eligible dependents under the plans, in plan documents, enrollment materials and SPDs. It is recommended that plan documents be amended and communication materials be revised to reflect the process that will be followed in determining dependent eligibility going forward—frequency of audits, verification process, ramifications of enrolling ineligibles, etc.

Conner Strong & Buckelew can assist in reviewing plan "dependent" provisions and with any needed changes to plan documents, summary plan descriptions and other plan materials. We can also make recommendations regarding implementation of cost-saving dependent eligibility audit/controls as you review the plan design and administrative issues relating to the definition of dependent.

info

**For more information, please contact
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