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New Jersey Guidance on Dependent Coverage Extensions

The New Jersey Office of the Commissioner has issued a Bulletin outlining certain federal health care reform requirements for insured health coverage issued in the state on or after September 23, 2010. Among other things, the Bulletin describes the inter-play between the health reform extension of coverage to age 26 dependents and the continuation to age 31 under New Jersey law. The Bulletin clarifies that the new federal requirement extending coverage to age 26 doesn't eliminate New Jersey's greater extension to age 31 applicable to fully-insured plans.

The new health reform law provides that a health plan that includes dependent coverage must make that coverage available until the attainment of 26 years of age, for plan years beginning on and after September 23, 2010 (January 1, 2011 for calendar year plans). A special rule applies if a plan is grandfathered. Grandfathered plans can deny age 26 eligibility to those eligible under a qualifying employer-sponsored health plan (other than the plan of a parent.) Separate premiums for covered children are not permitted if they are based on the age of a child. However, if a plan has a tiered premium structure for single coverage as opposed to single plus a certain number of dependents, the plan is allowed to charge the employee for the appropriate number of dependents as long as it is without regard to age.

New Jersey law provides for continuation of coverage for eligible dependents under the age of 31 (DU31). Note that this New Jersey limiting-age law applies to insured medical plans issued within the state, including employer-sponsored insured group plans. However, the DU31 mandate does not apply to self-insured medical plans governed by ERISA. DU31 differs from the health reform to age 26 mandate in terms of eligibility, duration, and rating requirements. NJ Bulletins 06-14 and 09-02 describe the New Jersey requirements. An individual who meets the requirements of the health reform to age 26 mandate is covered as a dependent rather than as a DU31 under New Jersey law. An individual who does not meet the requirements of the health reform to age 26 mandate, but does meet the requirements of DU31, should be afforded DU31 continuation. In particular, the Bulletin notes the following:

• For group plans grandfathered under health reform, an individual may be ineligible if that individual is eligible under a qualifying employer-sponsored health plan (other than the plan of a parent). Under DU31, if the individual is otherwise eligible under New Jersey law (under 31, unmarried/un-partnered, without children, either a resident of New Jersey or a full-time student at an accredited public or private institution of higher education), he or she is eligible for continuation unless actually covered by another health benefits plan. An individual under 26 in a grandfathered group plan who is ineligible as a dependent due to eligibility for group coverage is nevertheless eligible for DU31 continuation under New Jersey law.

• Individuals who are no longer eligible due to reaching age 26 who otherwise meet the New Jersey eligibility requirements are eligible for DU31 continuation until age 31. Example. The XYZ Company insured health plan is subject to the laws of New Jersey, where insured parents generally can continue dependent coverage until age 31. For plan years beginning after September 23, 2010, the federal law requires that XYZ's plan allow coverage for a child under age 26. XYZ's plan must also comply with the longer state law provision and allow parents to continue child dependent coverage to age 31.

While carriers are generally responsible for complying with the DU31 mandate, employers with insured plans and HMOs should be aware of the law and how it can affect plan administration, taxation and communication. As addressed in an earlier Conner Strong Update, health reform changed the tax rules for dependent health care coverage, so that both costs and reimbursements for extended dependent coverage under employer health plans are free of income taxes, regardless of Internal Revenue Service (IRS) dependency tests. This tax-free treatment started March 30, 2010, and is available until the end of the calendar year in which a child turns 26. But many dependents eligible for the further extended coverage under the DU31 mandate won't qualify for tax-free health benefits under the federal tax code, so employers should review their plans and enrollment records to determine who is eligible for tax-free benefits. When a dependent doesn't qualify for tax-free benefits, employers must tax employees for the full value of a dependent's coverage by imputing income or have the employee pay the full coverage cost on an after-tax basis. State tax on the coverage should also be considered (most states that impose income tax on wages follow the federal rules). To ensure proper reporting and withholding, employers may want to establish a process for identifying who is or is not a tax dependent.

As additional information becomes available on this topic, Conner Strong will issue updates. Employers should check with their Human Resources office to ensure compliance with this unique aspect of the new law. For information related to national health insurance reform, please visit our compliance center on insurance reform at www.connerstrong.com/healthcare_reform. If you have questions, **please contact your Conner Strong account representative toll-free at 1-877-861-3220.**