

Insider

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TAA Extension Act Includes Health Coverage Provisions

By Precious Abraham and Ann Marie Breheny

The Trade Adjustment Assistance (TAA) Extension Act of 2011 (H.R. 2832) retroactively increases the health coverage tax credit and extends COBRA periods for eligible TAA program participants and certain Pension Benefit Guaranty Corporation (PBGC) payees.

Health coverage tax credit

The refundable health coverage tax credit helps TAA-eligible individuals, recipients of wage subsidies under the Alternative TAA program (ATAA) and eligible PBGC payees with their health premiums.¹ When enacted in 2002, the tax credit was 65% of qualifying health insurance premiums. In 2009, the American Recovery and Reinvestment Act temporarily increased the credit to 80% of eligible premium expenses. Congress briefly extended the 80% credit in late 2010 but let it expire for coverage months after February 12, 2011.

The TAA Extension Act retroactively increases the credit from 65% to 72.5% of qualifying premiums for coverage months beginning after February 12, 2011, and before January 1, 2014. The credit will sunset on January 1, 2014.

Coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA)

The American Recovery and Reinvestment Act also extended maximum COBRA periods for individuals eligible under the TAA or ATAA program as well as eligible PBGC recipients, and those extensions also expired on February 12. Under the TAA Extension Act, these individuals are eligible for coverage for the maximum COBRA period that would otherwise be available or until January 1, 2014. The provision takes effect for COBRA periods that would otherwise end 30 days or more after enactment. So the new law does

not appear to reinstate extended COBRA periods for those whose COBRA coverage expired between February 12, 2011, and November 20, 2011.

New Law Affects Eligibility for Medicaid and Subsidies Under Health Care Reform Law

By Precious Abraham and Ann Marie Breheny

On November 21, President Obama signed legislation (H.R. 674) into law amending the calculation of modified adjusted gross income (MAGI) under the Patient Protection and Affordable Care Act (PPACA). The law will reduce the number of individuals and families who qualify for Medicaid coverage, subsidies and other health insurance assistance programs.

Under the PPACA as enacted, only the taxable portion of Social Security benefits and tier 1 railroad retirement benefits² counts as income when determining eligibility for Medicaid, premium tax credits, cost-sharing subsidies or the Children's Health Insurance Program. Under the new law, all Social Security or tier 1 railroad retirement benefits count as income when calculating MAGI.

The PPACA generally expands Medicaid eligibility to individuals and families with household incomes up to 133% of the federal poverty level and offers subsidies to those whose income is within 400% of the federal poverty level. The new law will reduce the number of individuals who qualify for such programs or subsidies by increasing the income taken into account in determining eligibility. Without the adjustment to the calculation of MAGI, many middle-income early retirees would have become eligible for Medicaid and insurance subsidies.

In This Issue

1
TAA Extension Act Includes Health Coverage Provisions

1
New Law Affects Eligibility for Medicaid and Subsidies Under Health Care Reform Law

Benefits Advisory and Compliance Update

2
IRS Extends 436 Amendment Deadline and Releases Sample Amendment

¹ TAA-eligible individuals are those who receive a trade readjustment allowance under the TAA program and attend TAA-approved training. Eligible PBGC payees are those who are at least 55 years old and cannot be claimed as a dependent on another taxpayer's return.

² A component of a railroad retirement annuity that approximates a Social Security benefit and includes all railroad and Social Security earnings.

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Benefits Advisory and Compliance Update

IRS Extends 436 Amendment Deadline and Releases Sample Amendment

In Notice 2011-96, the Internal Revenue Service (IRS) extends the deadline for amending defined benefit plans to incorporate the benefit restrictions in Internal Revenue Code section 436, which limit the accrual and payment of benefits in certain underfunded plans. The deadline has been extended from the end of the 2011 plan year to the last day of the 2012 plan year (December 31, 2012, for calendar-year plans).

Of course, even with the extended deadline, plan sponsors must continue to comply with the current benefit restrictions under section 436.

If Cycle B plan sponsors apply for a determination letter before the end of 2012, the restated plan must include a 436 amendment. In effect, an early Cycle B filing will accelerate the amendment deadline. (The Cycle B submission period opens February 1, 2012, and closes January 31, 2013.)

The IRS has also released a sample 436 amendment and extended anti-cutback relief. (Under the anti-cutback rules, a plan sponsor generally may not amend a qualified plan to decrease any participant's accrued benefit.)

Anti-cutback relief for a section 436 amendment is available as long as the amendment reduces plan benefits "only to the extent necessary" to satisfy section 436 restrictions. Using the sample amendment will satisfy this condition. Plans may receive anti-cutback relief under their own 436 amendment provided the amendment meets the "only to the extent necessary" condition.

Some plan sponsors might consider replacing their current section 436 amendment with the sample amendment. Although adopting the sample amendment is not required for plan sponsors whose own amendment satisfies section 436, using the sample amendment could expedite IRS review and approval. Whether the IRS would approve a non-sample amendment may depend on how closely the amendment conforms to the level of detail in the IRS sample.

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