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Inside This Issue:

- [2011 HSA Limits](#)
- [DOL Issues Interpretation of FMLA](#)
- [CMS Gives Guidance on Part D Checks](#)

2011 HSA Limits

IRS released that 2011 HSA Limits are unchanged from 2010 Limits

The Internal Revenue Service announced that the 2011 limits for health saving accounts (HSA) will remain at the 2010 amounts because the changes in the consumer price index do not result in changes for 2011.

The limits are as follows:

Contributions:

Self-Only Coverage \$3,050
Family Coverage \$6,150

Catch Up Limit for Individuals Age 55 or Older:

\$1,000

High Deductible Health Plan Minimum Deductible:

Self-Only Coverage \$1,200
Family Coverage \$2,400

Limit on Annual Out-of-Pocket Expenses:

Self-Only Coverage \$5,950
Family Coverage \$11,900

DOL Issues Interpretation of FMLA

Clarification on “son or daughter” leads to clarification on “parent”

Employers will need to take a more liberal view of the definition of a parent under the Family and Medical Leave Act in light of a new Labor Department administrative interpretation.

[The new interpretation](#) will have widespread implications for blended families and same-sex couples, and will direct employers to be more discerning in determining “quasi parental” status for those that may qualify for FMLA.

"No one who loves and nurtures a child day-in and day-out should be unable to care for that child when he or she falls ill," said Secretary of Labor Hilda L. Solis. "No one who steps in to parent a child when that child's biological parents are absent or incapacitated should be denied leave by an employer because he or she is not the legal guardian."

She continued: "No one who intends to raise a child should be denied the opportunity to be present when that child is born simply because the state or an employer fails to recognize his or her relationship with the biological parent. These are just a few of many possible scenarios. The Labor Department's action today sends a clear message to workers and employers alike: All families, including LGBT families, are protected by the FMLA."

Building off current FMLA law, which states that a person serving "in loco parentis" may be eligible for up to 12 weeks of unpaid leave under parental "bonding" leave as well as for the serious health condition of a child, the DOL adds that a child can have an unlimited number of "parents."

"Since it became law in 1993, the FMLA has always allowed leave for an employee who served 'in loco parentis' to a child, even if the employee had no biological or legal parental relationship with the child," explains Robin Shea, partner with national labor and employment law firm Constangy, Brooks & Smith, LLP.

"Therefore, under the law, a step-parent, or a sibling, or a grandparent, or even a family friend who filled the role of 'parent' to the child would have been entitled to FMLA leave for the child's birth or serious health condition," Shea adds. "The DOL interpretation clarifies that this would

apply to same-sex partners who act as 'parents,' which should be no surprise -- this is a contemporary situation that seems to clearly fit within the original language of the statute and the regulations."

In the interpretation provisions expressing that a child can have an unlimited number of "parents" for FMLA purposes, DOL details an example of a heterosexual couple that divorces and each remarries.

In this instance, the child would have four "parents" without any qualification. Although this would be the case under traditional interpretation of the FMLA if the step-parents served "in loco parentis," it had previously not been determined to apply to step-parents who did not serve in that role.

According to Shea, "this provision is more likely to be challenged in court than the application to same-sex parents who actually do serve 'in loco parentis.'"

Additional examples include an uncle who is caring for his young niece and nephew when their single parent has been called to active military duty, allowing the uncle to exercise his right to family leave.

Similarly, a grandmother who assumes responsibility for her sick grandchild when her own child is debilitated will be able to seek family and medical leave from her employer.

And, finally, an employee who plans to share in the parenting of a child with his or her same-sex partner will be able to exercise the right to FMLA leave to bond with that child.

"Our advice under the FMLA has always been to inquire about in loco parentis situations where an individual seeks FMLA leave to care for a child. Employers should continue to do so. But if an employer does not want to be a 'test case,' the employer will need to be more liberal about finding the requisite 'quasi-parental' relationship than it may have been in the past," Shea recommends.

CMS Gives Guidance on Part D Checks

\$250 benefit for Medicare beneficiaries that enter the "donut hole"

The Centers for Medicare and Medicaid Services recently issued guidance on the \$250 benefit in the [health care reform law](#) for Medicare beneficiaries who enter the "donut hole," or gap in coverage, for the Medicare Part D prescription drug program.

What follows is the guidance:

"The Centers for Medicare & Medicaid Services posted at www.medicare.gov (under "What's New") "[Closing the Prescription Drug Coverage Gap](#)" brochure that describes details about the tax-free, one-time check for \$250 for people who enter the Part D donut hole and are not eligible for Medicare Extra Help. The first checks are being mailed June 10 and checks will be mailed monthly after people have entered the coverage gap."

CMS officials added: "To help fight fraud and protect beneficiaries from potential scams, Medicare is reminding seniors there are no forms to fill out to receive this benefit. Medicare will automatically send a check." In addition, the envelope will have the U.S. Department of Health and Human Services symbol on it and will say "Medicare Part D."

Beneficiaries don't need to provide any personal information, according to CMS. Participants don't need to provide any personal information like Medicare, Social Security, or bank account numbers to get the rebate check. They are reminded not to give any personal information to anyone who calls about the \$250 rebate check.

"People with Medicare should call 1-800-MEDICARE (1-800-633-4227) to report any suspected fraud or scams or with any questions," the guidance cites.

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