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A considerable amount of attention has been given to the healthcare reform regulations that extend coverage for children to age 26, and the IRS section 105 non-discrimination rules that previously applied to self-insured plans, but will now also apply to fully-insured plans as well.

The new regulations relating to preventive care and FSA coverage of over-the-counter medications have escaped notice due to the attention given the topics mentioned above.

Preventive Care

New and non-grandfathered plans renewing on or after September 23, 2010 must cover preventive services without a co-payment, deductible or co-insurance when these services are delivered by in-network providers. Most plans currently cover preventive benefits to some extent, but in addition to mandating that preventive care is covered in full, the Affordable Care Act broadens the scope and definition of services which must now be covered.

Some questions still exist concerning exactly when a particular service will be considered preventive, thus requiring coverage with no cost-sharing, and when a service will be considered treatment subject to regular plan deductibles and copays. For example the list of preventive services includes "Alcohol Misuse screening and counseling." Clearly a visit and/or a counseling session with a provider where a patient's alcohol abuse is discussed and the provider recommends treatment would be considered preventive, but once the individual receives medical treatment for that condition, the costs would be subject to regular plan cost sharing. When exactly the care shifts from "preventive" to "treatment" is still being worked out by carriers and health plans.

A comprehensive list of preventive services that must be included is provided below.

Carriers estimate the expanded preventive services will increase plan costs between one-half and four percent, depending on the level of preventive care currently provided by the plan.

Further updates and guidance are expected, so you would be well advised to check the following web-pages periodically:

A general description of covered services

- <http://www.healthcare.gov/law/about/provisions/services/lists.html>

A more comprehensive list of services:

- <http://www.healthcare.gov/center/regulations/prevention/recommendations.html>

Covered Preventive Services for Adults

- Abdominal Aortic Aneurysm one-time screening for men of specified ages who have ever smoked
- Alcohol Misuse screening and counseling
- Aspirin use for men and women of certain ages
- Blood Pressure screening for all adults
- Cholesterol screening for adults of certain ages or at higher risk
- Colorectal Cancer screening for adults over 50
- Depression screening for adults
- Type 2 Diabetes screening for adults with high blood pressure
- Diet counseling for adults at higher risk for chronic disease
- HIV screening for all adults at higher risk
- Immunization vaccines for adults--doses, recommended ages, and recommended populations vary:
 - o Hepatitis A
 - o Hepatitis B
 - o Herpes Zoster
 - o Human Papillomavirus
 - o Influenza
 - o Measles, Mumps, Rubella
 - o Meningococcal
 - o Pneumococcal

- o Tetanus, Diphtheria, Pertussis
- o Varicella
- Obesity screening and counseling for all adults
- Sexually Transmitted Infection (STI) prevention counseling for adults at higher risk
- Tobacco Use screening for all adults and cessation interventions for tobacco users
- Syphilis screening for all adults at higher risk

Covered Preventive Services for Women

- Anemia screening on a routine basis for pregnant women
- Bacteriuria urinary tract or other infection screening for pregnant women
- BRCA counseling about genetic testing for women at higher risk
- Breast Cancer Mammography screenings every 1 to 2 years for women over 40
- Breast Cancer Chemoprevention counseling for women at higher risk
- Breast Feeding interventions to support and promote breast feeding
- Cervical Cancer screening for sexually active women
- Chlamydia Infection screening for younger women and other women at higher risk
- Folic Acid supplements for women who may become pregnant
- Gonorrhea screening for all women at higher risk
- Hepatitis B screening for pregnant women at their first prenatal visit
- Osteoporosis screening for women over age 60 depending on risk factors
- Rh Incompatibility screening for all pregnant women and follow-up testing for women at higher risk
- Tobacco Use screening and interventions for all women, and expanded counseling for pregnant tobacco users
- Syphilis screening for all pregnant women or other women at increased risk

Covered Preventive Services for Children

- Alcohol and Drug Use assessments for adolescents
- Autism screening for children at 18 and 24 months
- Behavioral assessments for children of all ages
- Cervical Dysplasia screening for sexually active females
- Congenital Hypothyroidism screening for newborns
- Developmental screening for children under age 3, and surveillance throughout childhood
- Dyslipidemia screening for children at higher risk of lipid disorders
- Fluoride Chemoprevention supplements for children without fluoride in their water source
- Gonorrhea preventive medication for the eyes of all newborns
- Hearing screening for all newborns
- Height, Weight and Body Mass Index measurements for children
- Hematocrit or Hemoglobin screening for children
- Hemoglobinopathies or sickle cell screening for newborns
- HIV screening for adolescents at higher risk
- Immunization vaccines for children from birth to age 18 —doses, recommended ages, and recommended populations vary:
 - o Diphtheria, Tetanus, Pertussis
 - o Haemophilus influenzae type b
 - o Hepatitis A
 - o Hepatitis B
 - o Human Papillomavirus
 - o Inactivated Poliovirus
 - o Influenza
 - o Measles, Mumps, Rubella
 - o Meningococcal
 - o Pneumococcal
 - o Rotavirus
 - o Varicella
- Iron supplements for children ages 6 to 12 months at risk for anemia

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- Lead screening for children at risk of exposure
 - Medical History for all children throughout development
 - Obesity screening and counseling
 - Oral Health risk assessment for young children
 - Phenylketonuria (PKU) screening for this genetic disorder in newborns
 - Sexually Transmitted Infection (STI) prevention counseling for adolescents at higher risk
 - Tuberculin testing for children at higher risk of tuberculosis
 - Vision screening for all children

Flexible Spending Accounts and Over the Counter Medications

Beginning January 1, 2011, over-the-counter (OTC) medicines will no longer be eligible expenses under Flexible Spending Accounts (FSA), unless prescribed by a doctor. OTC medicines, which include items such as aspirin, ibuprofen, antihistamines, etc., will need appropriate documentation from a doctor in order to be reimbursed by an FSA. Prescription drugs, insulin and other OTC healthcare related products, like blood pressure monitors, bandages, and first aid kits, continue to be eligible expenses. (It should be noted that the same rules apply to HSAs and HRAs).

In short, this change only applies to OTC medicines and becomes effective January 1, 2011 even if you are in the middle of your current plan year (such as plans that began on July 1, 2010 and end on June 30, 2011).

Since the majority of health FSA claims stem from medical treatments and prescriptions, the financial impact to the FSA participant should be fairly minimal -only about 10% of FSA claims are generated from OTC expenses. However, the confusion impact could be substantial. Participants will need to be made aware of this change during the open enrollment period so they don't overestimate their FSA elections for their 2011 plan. Finally, and importantly, participants who use a Benny card will also need to be informed that the card can no longer be used to purchase OTC medicines; they will have to submit prescriptions and receipts for these items.