

From: Pat Neeley <PNeeley@nilesbolton.com>
Sent: Friday, September 04, 2015 5:15 PM
To: Notice Comments
Subject: Notice 2015-52

I have comments on
Section 4980I — Excise Tax on High Cost Employer-Sponsored Health Coverage

Specifically:

V. Cost of Applicable Coverage
Cost to Employer and Determination Period

I would ask that you consider a different time frame for employers with Self-Insured Health plans. The costs of self-insured plans as defined by an actuary is related to 3 factors: Any premiums paid for Stop/Loss coverage, the cost of administering the plan, and the cost of the claims in the previous plan year.

The medical claims for a self-insured employer can have wide swings year over year, depending on the actual claims filed by the employees. High claim years can be due to non-recurring events with high medical claim costs, such as an employee with brain cancer, an employee with a premature birth, or an employee with a transplant. These events are atypical events, and so can cause wide swings in the Actuarial rates for a plan. This is especially true for the employers with less than 250 employees, and the pool of insureds is much smaller, so the swings can be quite large.

The regulations as written do not allow for this wide swing in rates, so a plan may be defined as a "Cadillac Plan" one year, if the previous year had an extraordinary claim, , and then the next year it is not a Cadillac plan, because there were no extraordinary claims, though there has not been any change in benefits offered. This will wreak havoc with employers trying to develop medical plans for the employees and maintain their costs. Employers would have to significantly reduce the benefits to their employees in a year following the high claims. Employees would become increasing frustrated with medical plans that changed year after year.

I would suggest that for self- insured employers, the Determination Period be a 5 year moving average, so that the swings up or down will not be included in the determination of whether a plan is a "Cadillac Plan".

Thank you,
Pat Neeley

Pat Neeley
CFO
404.365.7600 x 115 | pneeley@nilesbolton.com
www.nilesbolton.com

NILES BOLTON ASSOCIATES
Architecture | Planning | Design

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