August 23, 2010

Mini-Med Waiver Program

Under the current interim final rules issued June 28, 2010, most mini-med plans would violate the lifetime and annual limit requirements beginning the first plan year on or after September 23, 2010 (or January 1, 2011 for calendar year plans). This means that most mini-med plans would cease to exist under the new requirements. However, in the preamble to the interim final rules, HHS indicated that it will start a temporary waiver program, so that mini-meds could apply for a waiver from the lifetime and annual limit requirements. If the waiver is approved, the mini-med plan would be exempt from the lifetime and annual limit requirements until January 1, 2014. After that date, presumably the Exchanges would be operational and individuals previously covered by mini-meds could obtain basic coverage through an Exchange.

Since announcing the waiver program, HHS has released no additional information about how to apply for the waiver and what the waiver requirements will look like. However, informally we have heard that HHS is understandably overwhelmed and it may consider a blanket waiver by regulation that would automatically apply to most mini-meds. This would obviously be better for employers since they would not need to apply for an individual waiver, but it would also be good for HHS as well since they would not need to establish and administer an individual waiver program.

August has traditionally been a vacation month in Washington, and the agencies are no exception. Therefore, regulatory-speaking things have been quiet this month. However, because the lifetime and annual limit requirements begin to apply to the first plan year on or after September 23, 2010, I suspect that more information regarding the waiver will be forthcoming in September.