Unpacking the CARES Act

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THE HISTORIC CORONAVIRUS (COVID-19) pandemic has consumed every aspect of our lives, putting a major strain on daily life in ways we never could have imagined.

As we are returning to work, there were provisions in the $2 trillion-plus CARES Act with which most of us have become very familiar and others that may be less familiar. As of this writing, new stimulus is under consideration.

The Paycheck Protection Program which provided low interest, partially forgivable, federally guaranteed loans to encourage retention of employees through the COVID-19 crisis, is one of the most well-known and critical components. New guidance from the SBA takes into account the fact that some employees may not come back to work so it states that as long as businesses "make a good faith" effort to rehire employees—and explain that they may lose their unemployment eligibility by not returning—the businesses would not face a penalty under that portion of the loan.

The stimulus also included a significant and much needed expansion of unemployment benefits that extends unemployment insurance by 13 weeks and includes a four-month enhancement of benefits for up to 39 weeks in some states. The enhanced benefits will provide an additional $600 per week on top of what state unemployment programs pay.

The recovery rebates are another very widely known provision. They are direct payments to U.S. resident taxpayers in the amount of $1,200 ($2,400 for couples). Families will receive an additional $500 per child. Phase out and married filing joint provisions apply.

Regarding retirement plans, RMDs from employer-sponsored retirement plans and IRAs will not apply for the 2020 calendar year; this includes any 2019 RMDs that would otherwise have to be taken in 2020. In addition, the 10% early-distribution penalty tax that would normally apply to distributions made prior to age 59 ½ is waived for retirement plan distributions of up to $100,000 relating to the coronavirus; special re-contribution rules and income inclusion rules for tax purposes apply as well. Lastly, expanded limits on loans from employer-sponsored retirement plans with repayment delays are also provided.

The student loan provisions may be lessor known. They provide a six-month automatic payment suspension for any student loan held by the federal government ending September 30, 2020. In addition, the already existing employer exclusion of $5,250 for education assistance programs has been expanded to include student loan repayments on an employee's behalf.

The Act also essentially repeals the Medicine Cabinet Tax provision of the Affordable Care Act (ACA) expanding the list of qualifying medical expense purchases available through your tax qualified spending accounts to include certain over-the-counter medications, feminine hygiene and other products that may be paid for using HSAs, HRAs and FSAs.

Another lessor known provision allows telehealth and other remote care services to be covered under a high deductible health plan before the deductible is met without affecting the HDHP's compatibility with health savings accounts (HSAs). Funding and grants are available for health care providers with connected devices to facilitate telemedicine services, with the goal of freeing up hospital beds and help rural communities purchase broadband equipment for telemedicine.

Other provisions issued deadline relief to help employee benefit plans, plan participants and plan service providers impacted by the COVID-19 outbreak. Essentially this relief gives plan participants additional time to comply with certain deadlines affecting COBRA continuation coverage, special enrollment periods, claims for benefits, appeals of denied claims and external review of certain claims. It also gives plan sponsors more time to provide ERISA mandatory notices. Regarding disability and other plans, the final rule provides additional time for participants and beneficiaries to make claims for benefits and appeal denied claims. Without the extension, individuals might miss key deadlines during the outbreak that could result in the loss or lapse of coverage or the denial of a claim for benefits.

Lastly, the Families First Coronavirus Response Act (FFCRA), also includes requirements that health plans cover COVID-19 testing at no cost to the patient, employers with fewer than 500 employees generally must provide paid sick leave to employees affected by COVID-19 who meet certain criteria, paid emergency family and medical leave in other circumstances, and payroll tax credits are provided for required sick leave as well as family and medical leave paid. ■

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