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IRS Announces Breast Pumps are Tax Deductible

On Feb. 10, 2011, the IRS issued Announcement 2011-14, in which it concluded that breast pumps and supplies that assist lactation qualify as “medical care” under Section 213(d) of the Internal Revenue Code (the Code). The IRS compared these items to obstetric care, stating that they are for the purpose of “affecting a structure or function of the body” of the lactating woman. This conclusion is a reversal of the IRS’s previous position on the tax treatment of these items.

The IRS’s interpretation may affect individual taxpayers, as well as sponsors and administrators of health flexible spending accounts (health FSAs) and health reimbursement arrangements (HRAs). The IRS plans to revise Publication 502, Medical and Dental Expenses, to include this new information.

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Getting Your Workplace Wellness Program Started

Workplace wellness can lower health care costs, increase productivity, decrease absenteeism and raise employee morale. And because employees spend many of their waking hours at work, the workplace is an ideal setting to address health and wellness issues. But where do you start?

Gain Support from Management

Support from all levels of management is a key to the success of your wellness program. To ensure the support of management, inform managers about the program early on and encourage them to participate. Communicate clearly and often the goals and benefits to the company and participants.

Designate a Coordinator

The level of success for the wellness program is often linked to the coordinator’s time and ability. It is essential that some or all of the coordinator’s time be dedicated to the wellness program. If this isn’t possible, then the company may want to consider contracting with an outside party to provide programming. Local health care organizations and YMCAs often provide this service. Check with your local contacts to see if this is an option.

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Getting Your Workplace Wellness Program Started, cont.

Analyze Your Needs

Complete a worksite environmental assessment and conduct an employee interest survey to collect information on the topics that would be of most interest to the staff. This type of prior planning and analyzing can help you get the most for your investment. Plan activities and initiatives, and set program priorities based on the results of these assessments.

Develop an Action Plan

This should include specific goals and objectives, strategies to meet these goals, a timeline, a budget and an evaluation plan. If your goals are clearly identified, it will be easier to evaluate the effectiveness of your wellness program.

Invest Accordingly

Monetary costs can fluctuate widely, depending on whether the employer pays all costs, the employees pay all costs or the costs are shared. The Wellness Council of America estimates the cost per employee to be between \$100 and \$150 per year for an effective wellness program that produces a return on investment of \$300 to \$450. Keep in mind that the return on investment will likely be greater with more comprehensive programs, so the higher cost will also generate a greater return on investment due to lower health care costs and less absenteeism.

Implement and Communicate the Plan

You need an effective communication strategy to help put your plan into motion, to get employees to buy in and encourage participation. Be sure to include plenty of education so employees understand why you're implementing a wellness program, and the benefits they can gain as a result of participating.

After you've laid the groundwork to develop a wellness program, take the time to plan the components that will result in a quality program. Following these steps and not rushing the planning process will ultimately make your program more successful.

IRS Announces Breast Pumps are Tax Deductible, cont.

Affect on Individuals

The new IRS position can potentially benefit individual taxpayers that are eligible to deduct their medical expenses. It means that expenses paid for breast pumps and supplies that assist lactation may be tax-deductible medical expenses for the individual. In order to take the tax deduction for these items, the individual taxpayer must meet the other applicable requirements of Code Section 213. For example, the taxpayer's total medical expenses must exceed 7.5 percent of his or her adjusted gross income.

Affect on Plan Sponsors

The IRS stated in its announcement that amounts reimbursed for breast pumps and supplies that assist lactation under Health FSAs, Archer medical savings accounts, HRAs or health savings accounts are not income to the taxpayer.

Accordingly, plan administrators may reimburse participants for costs for breast pumps and lactation supplies. They no longer will need to determine whether these items qualify as dual purpose expenses or require documentation from a medical practitioner that the item is recommended to treat a medical condition.

For a copy of IRS Announcement 2011-14, see www.irs.gov/pub/irs-drop/a-11-14.pdf.

Misclassifying Workers

The relationship between the employer and the worker is not always straightforward, but despite the possible discrepancies, it is extremely important to properly classify your workers. The tax implications vary depending on the type of worker, and the penalties for misclassifying a worker can be huge. For example, a Florida-based company with locations across the U.S. recently agreed to pay more than \$754,000 in overtime back wages after the U.S. Department of Labor found that the company had incorrectly classified workers

under the Fair Labor Standards Act. All of the fines were preventable had they properly classified their workers.

Classifying Workers

Before determining how to treat payments your company makes for services, you must categorize the business relationship that exists between your company and the person performing the services. Is the worker an employee or a type of independent contractor? Workers may be categorized as one of four types: employees, statutory employees, statutory non-employees or independent contractors.

Because not every worker can be easily classified in one category, it is important to take the entire working relationship into account. Consider the extent of the right to direct and control the services of the worker. And after you've classified the worker, document each of the factors used to determine how you came to your classification decision.

Consider contacting a tax adviser if you are uncertain about a worker's status. Or, Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding (www.irs.gov/pub/irs-pdf/fss8.pdf) can be filled with the IRS. The IRS will review the facts and circumstances and officially determine the worker's status.

Helping Employees through Financial Difficulties

Most people go through financial heartache at some point or in their lives. Whether it's paying back student loans, paying high mortgage payments or affording steep gas prices, sometimes staying financially afloat can be a very difficult.

If your employees find themselves struggling financially, there are things you can do to help them resolve these issues. You may already have the tools in place – your Employee Assistance Program (EAP). By incorporating financial assistance into your current EAP, you will be able to help your employees resolve their struggles with resources you can easily provide.

Typical Financial Services in an EAP

- Tax planning and management
- Investments
- Risk management and insurance
- Budget and cash management
- Estate and gift planning
- Retirement

EAP Financial Service Benefits

- Provides employees with much needed financial assistance and advice
- Enhances the awareness of benefits that you offer
- Attracts potential employees and retains existing ones
- Assists in the work/life balance struggle by providing a service at work
- Allows employees to make sound financial decisions
- Enhances your compensation package and its value to your employees

Promoting Your EAP

To promote the use of financial assistance through your EAP, consider the following actions:

- Periodically remind your employees that you have an EAP in place to assist them with all facets of their lives. Send out an email or newsletter highlighting its features.
- Consider developing a partnership with a nonprofit organization in your area devoted to assisting individuals with financial trouble. Incorporate their tools into your EAP and offer a direct connection for your employees to those professionals.
- Find ways at your office to help employees save money, such as starting a green campaign. Suggest that employees fill up water bottles instead of buying bottled water, turn off lights at home, open windows instead of using the air conditioner, etc. Ask that employees work these behaviors into both their work and home lives.
- Help employees fight high gas prices by starting an online carpool message board, giving discounts for using local transit or offering telecommuting options so employees can work from home.

The information contained in this newsletter is not intended as legal or medical advice. Please consult a professional for more information.