
BENEFITS ALERT 2007- 04

TO: All Clients & Friends of FBMC

DATE: 06/14/07

FROM: Christina (*Tina*) Bischoff, *CFCI*
Compliance Officer
Fringe Benefits Management Company
850-425-6200 X2450
tbischoff@fbmc-benefits.com

RE: TRICARE, Group Health Plans, and Café Plans

We have received information from our outside counsel that **effective January 1, 2008**, Employers will be prohibited from offering financial or other incentives to employees, who are *also entitled to benefits under a governmental health program (e.g., TRICARE)*, **not to enroll in (or to terminate enrollment from)** their Employers' group health plans (GHP) or a large group health plan that are or would be primary to such governmental plan.

This action is in response to an assessment made by the Department of Defense (DoD) at the request of the House and Senate Armed Services Committees. In the DoD's report to Congress, the Assist. Secretary noted that Employers have been using incentives to shift "thousands of dollars of annual health costs per employee to the Defense Department, draining resources from higher national security priorities."

The Department of Defense will enforce this prohibition. Related civil monetary penalties are not to exceed \$5000 for each violation.

This means that in all instances, Employers (private or public, including state and local governments):

- will be prohibited from offering "TRICARE Supplement" plans to TRICARE-eligible beneficiaries as an **option** for health coverage under the Employer-sponsored GHP. (These plans are considered improper incentive targeted only at TRICARE-eligible beneficiaries not enrolling in the Employer's main health plan option(s). And they can't be included in a café plan because they're not open to all employees.)
- must protect the rights of TRICARE-eligible employees so that they can participate in their Employer-sponsored GHPs to the same extent as similarly-situated employees who are not TRICARE eligible.
- that have TRICARE-eligible beneficiaries who elect to participate in their Employer-sponsored GHPs, will have their Employers' GHPs for their primary plan and TRICARE as the secondary payer.

If an Employer offers GHPs to its employees under a café plan, is that also considered an improper incentive? No, the DoD will *not* consider it an improper incentive when Employers offer their employees (including those entitled to TRICARE) a choice between health insurance and cash payment equivalents in compliance with lawfully administered § 125 cafeteria plans that by definition treat all employees equally.

Additional Information

Please contact Tina Bischoff at Ext. 2450.