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BENEFITS BRIEF

April 11, 2012 www.groom.com

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Employers Consider the Employer Group Waiver Program for Retiree Drug-Cost Savings

Employers who currently receive a federal tax subsidy for providing retiree prescription drug coverage under the retiree drug subsidy program, or RDS, will no longer be able to take a deduction for that subsidy as of 2013 under the Patient Protection and Affordable Care Act, or the Affordable Care Act. Therefore, many employers are considering an alternative subsidy program referred to as the Employer Group Waiver Program, or EGWP, as an attractive way to achieve significant plan savings and are weighing the benefits of the EGWP against the RDS.

An EGWP plan is a Medicare Part D plan that is offered exclusively to employers' retirees. Employers with an EGWP retiree drug plan will experience savings under the Coverage Gap Discount Program, which was passed as part of the Affordable Care Act. In the Coverage Gap Discount Program, pharmaceutical companies cover 50% of the beneficiary's share of brand-name drug costs occurring in the 'donut hole.' For employers, this translates into a 50% reduction in drug costs while a beneficiary is in the 'donut hole.'

Additionally, under Medicare Part D, once an individual's Medicare drug plan out of pocket drug costs reach the "True Out of Pocket Threshold," or $4700 for 2012, the individual has "catastrophic coverage" where the beneficiary is responsible for the greater of 5% of drug cost or either $2.60 copayment for generic or $6.50 copayment for brand name drugs (the exact dollar co-pay changes each year). In catastrophic coverage, the employer is generally responsible for 95% of the drug cost, however **80% of that cost will be reimbursed by Medicare**.

An EGWP plan must be structured in accordance with Centers for Medicare and Medicaid Service, or CMS, regulations and may only be offered to Medicare eligible retirees and their Medicare eligible dependents. The EGWP plan may only include a CMS approved formulary and a CMS approved plan design. In order to mirror existing retiree prescription coverage, many employers provide secondary "wrap" retiree prescription drug coverage, which may cover additional drugs and provide prescription coverage to early retirees and their spouses. To illustrate the potential savings under an EGWP plan, assume an employer's EGWP plan with wrap coverage requires a $25 co-pay for brand drugs and the brand drug costs $100. The retiree pays the $25 co-pay and the plan pays the remaining $75. The plan is then reimbursed $50 under the Coverage Gap Discount Program representing 50% of the drug cost of $100.

Employers should be aware that an EGWP plan is regulated by CMS and adds significant administrative burdens when compared against the RDS including, but not limited to, coordinating employer retiree medical coverage notices with CMS required notices and additional costs associated with administering two retiree prescription drug plans (the supplemental wrap plan and the EGWP plan). Employers weighing an EGWP plan against the RDS should:

- Compare the Standard Part D formulary against their current formulary. Under CMS regulations, employers would have to obtain a waiver to exclude drugs that are listed on the standard Part D formulary. Employers should also be aware that mandatory generic drug provisions are not permitted under CMS regulations.

- Compare the required Part D pharmacy network against their existing commercial network and consider the impact of a new network on retirees.

- Consider the administrative cost of operating two retiree prescription drug plans – the EGWP plan and the supplemental wrap plan.

- Consider the high-income premium surcharge, which applies to EGWP plans starting in 2011. While the employer could choose to reimburse affected retirees, tax nondiscrimination rules may limit providing more favorable employer contributions for highly compensated employees.

- Consider the administrative burden of integrating existing retiree medical communications with CMS required notices and any disruption or confusion this may cause retirees.

- Consider that an EGWP plan may only be offered to Medicare eligible retirees. An employer choosing to provide coverage for early retirees or non-Medicare eligible dependents would have to provide coverage under a supplemental plan.