



Health care reform impacts churches as employers

As employers, churches are significantly affected by the new health care reform legislation. The legislation contains no specific exemptions for churches, and in many cases the effect will be the same as on similarly sized business employers.

In some ways, however, the law may have a greater impact on church employers. Churches have historically been exempt from many benefit plan laws, and have had more flexibility in designing and establishing health plans than most non-church employers. For instance, in some churches ministers have substantially better health benefits than other employees. Churches may find some of the new requirements to be more burdensome than an employer with a health plan already under significant government oversight would.

Compared to many non-church employers, churches also tend to have a larger variety of employee categories, such as ministers, lay employees, full-time, part-time and seasonal employees. This may make it more challenging to develop lawful church benefit plans that effectively provide health care for some church employee mixes.

Requirements 2010 – 2013

While many of the new plan requirements have not received extensive publicity, they could affect health plans almost immediately. Some of the requirements we believe will have particular impact on churches include:

- No lifetime or annual coverage limits
- Extension of dependent coverage up to age 26
- Coverage for preventive

health services without any cost-sharing requirements

- Mandated specific patient protections
- For insured health plans, no discrimination in favor of more highly compensated employees
- Mandated claims appeals and review processes
- Prohibition on pre-existing condition exclusions
- W-2 reporting of the cost of health coverage (beginning with calendar year 2011 and reported on the Form W-2 issued in 2012)

Some of these do not apply to “grandfathered plans,” which generally means plans in effect on March 23, 2010. Most apply whether the plan is insured, self-insured, or some combination.

The requirements for individual coverage and employer plans discussed in the remainder of this article take effect in 2014.

Effective January 1, 2014, U.S. citizens and legal residents must have qualifying health coverage or be subject to a tax penalty. The full penalty will be phased in over several years.

There are several exemptions to the insurance requirement, including low income, unaffordable coverage and hardships. Two religious exemptions, however, are of specific interest to church employees: a religious sect exemption and participation in a health care sharing ministry.

Religious exemption

The religious sect exemption requires that the individual be a practicing member of a religious group with a religious tenant opposing public or pri-

vate insurance. The group must have been in existence since December 31, 1950. This category may apply to the Amish and similar groups. This is different from some ministers’ Social Security exemptions, which require opposition to public retirement benefits with respect to religious employment but allow private retirement plans. The religious sect exemption for the health plan coverage does not allow either public or private health insurance.

Exempt from requirement

A person who participates in a health care sharing ministry is also exempt from the coverage requirement. The health care sharing ministry must have been in continual existence since December 31, 1999 and meet other requirements.

Effective January 1, 2014, a church that averaged at least 50 full-time employees (“full-time” being more than 30 hours a week) during the preceding calendar year may be subject to penalties if it does not offer affordable minimum essential coverage. The penalty only applies if a full-time employee is certified to the church as having enrolled in health insurance coverage purchased through a state exchange that results in a premium tax credit or cost-sharing reduction allowed or paid to the employee.

A church health plan with more than 200 employees may be subject to automatic enrollment requirements for new employees.

In counting employees for either the 50 or 200 employee threshold, ministers will be treated like any other worker.

Many Christians participate in health care sharing ministries. These ministries often allow Christians to assist one another with medical expenses, at a substantially lower cost than insur-

ance premiums. More information about such ministries is available at www.healthcaresharing.org.

A specific exception written into the health care reform legislation allows a participant in a health care sharing ministry to be exempt from the individual health care coverage requirement. The exemption, however, does not make such participation “insurance” for any tax purposes.

For tax purposes, participation is considered a series of gifts. When a participant makes a “payment” they are making a gift and the person who receives a payment to cover medical expenses is receiving a gift.

Since the payments are considered personal gifts, they do not qualify for reimbursement under health insurance policies, employer’s self-insurance, or cafeteria plan medical reimbursement.

It currently appears that an employer’s payment for participation in health care sharing ministries will not meet two requirements of the health care reform legislation. It will not count as payment of insurance or health care under non-discrimination requirements for self-insured or insured health plans. It also will not count as insurance under the provision for penalties in the large employer health plan requirement described above.

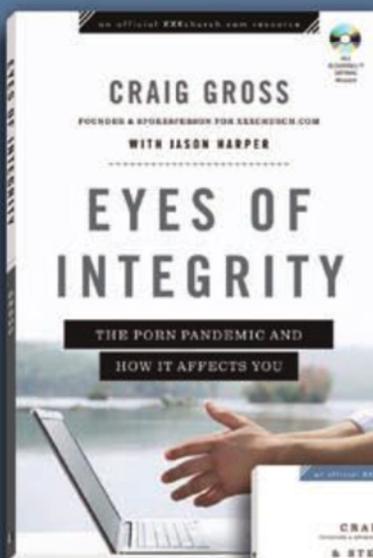
Many people believe the loss of tax benefits with health care sharing ministries is more than offset by the reduced medical expenses and sense of sharing among believers. Our goal is simply to alert church employers of some limitations associated with these programs.

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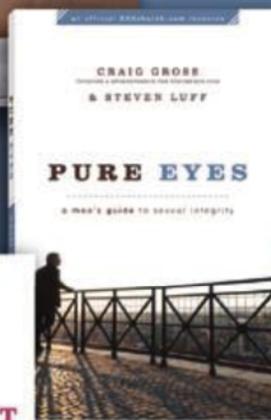
This article is intended to provide accurate and authoritative information in regard to the tax issues covered. It is provided with the understanding that the authors are not engaged in rendering specific accounting or tax advice. If tax or other expert assistance is required, the services of competent professional persons should be obtained.

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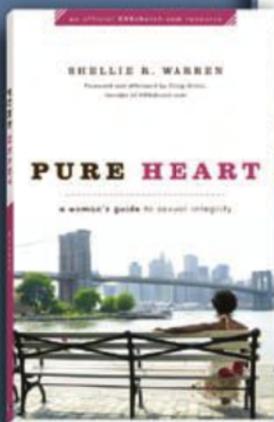
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