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Can employer-sponsored health plans cover transportation and lodging expenses associated with travel to receive medical care?

Several large companies, including Amazon, Apple and Uber, have recently announced that they will cover the cost of certain travel expenses for employees seeking non-life-threatening medical care not offered within a certain distance of employee's home. These announcements have garnered a lot of publicity and a lot of questions from employers, including if this is allowable and, if so, whether the employer-sponsored health plan can cover these types of travel expenses on a pretax basis.

The answer: Yes, employers can reimburse those travel expenses incurred by employees and/or spouses and dependents on a pretax basis through an employer-sponsored health plan *so long as the expense qualifies as an eligible 213(d) medical expense*. Any amounts paid or reimbursed that do not meet the 213(d) definition would be considered taxable compensation to the employee.

How do travel expenses play into this?

The Tax Code treats certain travel expenses incurred primarily for and essential to obtaining medical care as eligible 213(d) medical expenses, meaning they can be paid for by group health plans, including reimbursement through a medical flexible spending account (FSA), health reimbursement arrangement (HRA) and/or health savings account (HSA), on a pretax basis.

What travel expenses are allowable 213(d) medical expenses?

Transportation

The Tax Code defines transportation expenses to include the cost of traveling by bus, air, taxi and/or train, as well as the cost of gas and oil if driving by car. Additionally, if a guardian, caretaker or medical provider is required to travel with the individual to obtain the medical care, those costs associated with the person accompanying the individual seeking medical care are also considered eligible expenses.

Costs of car insurance, car maintenance and/or car repair expenses are not eligible medical expenses.

Lodging

Additionally, the costs of lodging, up to \$50 per night per person, qualify as eligible 213(d) medical expenses so long as:

- The lodging is primarily for and essential to medical care
- The medical care is provided by a doctor in a licensed hospital or in a medical care facility related to, or equal to, a licensed hospital
- The lodging isn't lavish or extravagant under the circumstances
- There is no significant element of personal pleasure, recreation or vacation in the travel away from home

What steps do plan sponsors need to take to provide coverage for these types of travel expenses?

Plan sponsors will want to consider how and to what extent they want to include coverage of transportation and/or lodging expenses and update the plan accordingly.

Major medical plans may include a specific plan exclusion related to these travel type expenses or include certain requirements to be met for the benefit to be provided. If that is the case, the plan would need to be amended to reflect the benefit change. Many FSAs, HRAs and HSAs on the other hand are usually broadly drafted to allow reimbursement of any eligible 213(d) medical expenses, and if that is the case an amendment might not be needed.

Plans will also want to include any applicable limits or requirements related to coverage of travel expenses in the plan documents, including dollar limits or limits based on the availability of services within a specified distance of an employee, in the plan document.

Plan sponsors, with the help of their Lockton account team, will want to amend plans as needed and work with their carrier and/or stop loss provider to ensure appropriate coverage.

Also keep in mind, any expenses paid or reimbursed that do not qualify as eligible 213(d) medical expenses should be included as income and have appropriate taxes withheld.

Communicate the change

If a plan amendment is needed to cover the travel expenses, ERISA requires the plan change be communicated to participants within 210 days after the end of the plan year the change is made.

Conclusion

Make sure the plan documents reflect what the plan sponsor wants to cover. The plan should clearly reflect coverage of allowable travel expenses and the extent to which the plan will cover such expenses, and any changes should be communicated to plan participants appropriately.

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