West Ohio Conference
of The United Methodist Church

September 2015

RE: Important Information on Employer Payment Plans for Medical Coverage

Dear Local Church Leader;

This communication is adapted from information provided by the General Board of Pension and Health Benefits (www.gbop.org) on whose site much information can be found with respect to the Affordable Care Act and its implications for individuals, churches and Annual Conferences. This message applies to all local church employees, both lay and clergy.

The Internal Revenue Service (IRS) and Department of Labor (DOL) issued guidance (DOL technical release 2013-03 and IRS **Notice 2013-54**) *{hyperlink to http://www.irs.gov/pub/irs-drop/n-13-54.pdf}* that may impact how your church funds medical coverage for some employees. The guidance states that, effective January 1, 2014, organizations may no longer directly pay premiums for an individual health insurance policy [a health insurance policy for an individual or family purchased directly from an insurance company (an "issuer")or through the Affordable Care Act's (ACA) Marketplaces (also called exchanges)]for an employee, nor reimburse an employee who purchases an individual health insurance policy.

These arrangements are sometimes called "Employer Payment Plans" (EPPs) or stand-alone health reimbursement arrangements (HRAs). Although Employer Payments Plans and stand-alone HRAs are no longer permitted for active employees, an employer can establish a payroll practice of forwarding post-tax employee wages to a health insurance issuer at the direction of the employee, if the arrangement satisfies a few other requirements:

- No contributions are made by the employer, i.e., the payment is part of the employee's taxable salary that is being forwarded by the employer to the insurance issuer.
- Participation in the program is completely voluntary for employees.
- The employer collects premiums through payroll deduction and remits them to the insurer without endorsing the program.
- The employer receives no consideration (e.g., cash) other than reasonable compensation for administrative services rendered to collect the premiums.

In frequently asked questions **(ACA FAQ XXII)** {hyperlink to http://www.dol.gov/ebsa/faqs/faq-aca22.html} published by the IRS (along with the DOL and the Department of Health and Human Services), the government agencies made clear that employers could also violate the ACA by reimbursing employees for premiums employees paid to the issuer with dollars reported as taxable income. These taxable reimbursement arrangements would be considered employer group health plans and would also be prohibited under the ACA as violating the prohibition on annual dollar limits in a health plan. This latest guidance means that *the only way employers can assist their employees in paying for individual health insurance policies is through increased salaries or the above-described safe harbor salary-forwarding type arrangement.*

Local churches that rely on Employer Payments Plans to cover lay employees, deacons or part-time clergy should terminate those plans immediately. Continuing these plans risks Affordable Care Act (ACA) excise tax penalties to the local church, namely a penalty under Section 4980D of the Tax Code that levies a penalty of **$100 per day per affected employee** on the employer (e.g., the local church). This can amount to $36,500 annually per employee.

Districts

Capitol Area North
Capitol Area South
Foothills
Maumee Watershed
Miami Valley
Northwest Plains
Ohio River Valley
Shawnee Valley

32 Wesley Boulevard
Worthington, Ohio 43085

phone 614-844-6200
toll-free 800-437-0028
fax 614-781-2642

www.westohioumc.org

Moreover, these arrangements, even if prohibited, would be considered "minimum essential coverage" under the ACA, and the local church would be required to submit year-end information reporting forms (Forms 1095-B) to the IRS related to the coverage for each employee. Failure to report minimum essential coverage (no matter how small an employer/plan sponsor is) can result in significant additional penalties to the employer.

Local churches that wish to continue providing financial assistance to help employees purchase individual health plans or policies through the ACA Marketplace or the private market still have a few options:

1. A local church can increase the employee's taxable wages, provided the church does not condition the wage increase on the purchase of insurance. This option also increases the employee's taxes and the church's payroll (FICA) taxes and has implications for other benefits, such as retirement benefits through the Clergy Retirement Security Program (CRSP) and United Methodist Personal Investment Plan (UMPIP), as well as denominational and conference average compensation (DAC and CAC).
2. A local church can establish a payroll practice of forwarding post-tax employee wages to a health insurance issuer at the direction of an employee, if the practice meets the following criteria:

    - No contributions are made by an employer.
    - Participation in the program is completely voluntary for employees.
    - The employer collects premiums through payroll deduction and remits them to the insurer without endorsing the program.
    - The employer receives no consideration (e.g., cash) other than reasonable compensation for administrative services rendered to collect the premiums.

3. A local church can adopt plans through the Small Business Health Options Program (SHOP) Marketplace for employees and provide a tax-free contribution toward coverage.

In addition, there are ACA restrictions on health flexible spending accounts (FSAs). Employees at local churches should not be provided a health FSA unless they have also been offered access to an employer group health plan, e.g., a small group market plan, SHOP plan or an annual conference plan that is sponsored, adopted or "participated in" by the local church.

Employers also can offer tax-free excepted benefits (such as employee assistance programs, dental and vision plans) to employees. Employers also can use deferred compensation arrangements [e.g., 403(b) plans, etc.] as a complementary approach to relying on the ACA Marketplaces.

West Ohio Conference

The Annual Conference Recommendation that the Conference Board of Pension and Health Benefits puts before Annual Conference members each year sets forth West Ohio policies with respect to clergy health insurance coverage. The 2015 recommendation that passed this June can be found here: http://www.westohioumc.org/sites/default/files/PDF/2015ac/bor/#p=38). As has been the case for many years, the recommendation makes it the policy of the Annual Conference that clergy under full-time appointment will participate in the Conference health insurance plan.

West Ohio Conference
of The United Methodist Church

If such clergy have access to health insurance through a spouse's plan, a prior employer plan or a military plan, they may instead opt for coverage through these three arrangements. **Clergy who opt out for a reason other than these three must do so in writing and the decision is irrevocable: he or she may not access the West Ohio active or retiree health insurance plan in the future.**

Look for additional information about the 2016 Conference health insurance plans beginning in early October.

As this communication makes clear, any funds the church provides to cover the cost of alternative coverage is taxable income and is considered part of the clergy's salary. Any such amounts should be incorporated into the salary line on charge conference forms.

If you have any questions, please refer to the links included in this communication or contact the Conference Benefits Officer at benefits@wocumc.org or by calling 614.844.6200.

Sincerely,

Bill Brownson
CFO & Director of Administration