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Littler Mendelson's Employee Benefits Practice Group:

Steven Friedman, *Practice Chair*
212.583.9600

James Boudreau
267.402.3029

Lisa Chagala
925.932.2468

Phil Gordon
303.629.6200

Michael Hoffman
415.433.1940

G. J. MacDonnell
415.433.1940

Darren Nadel
303.629.6200

Nancy Ober
415.433.1940

Adam Peters
415.433.1940

Michelle Pretlow
202.842.3400

Dan Rodriguez
713.951.9400

Rick Roskelley
702.862.8800

Kate Rowan
415.433.1940

Dan Srsic
614.463.4201

Daniel Thieme
206.623.3300

J. René Toadvine
704.972.7000

Kevin Wright
202.842.3400

Employee Benefits

A Littler Mendelson Health and Welfare Alert

IRS Expands Medical Expense Deductions

By Michelle I. Pretlow

The IRS recently issued Revenue Ruling 2007-72 expanding Internal Revenue Code Section 213(a) to allow a medical expense deduction for certain diagnostic procedures. Section 213(a) of the Code allows individuals to deduct medical care expenses which are not covered by insurance as long as the expenses exceed 7.5% of the individuals adjusted gross income. Group health plans and health flexible spending account plans often reference Section 213(a) to describe the type of benefits that may be covered by a plan.

Medical care is defined as amounts paid for the diagnosis, cure, mitigation, treatment, prevention of disease or that affects a structure or function of the body. Treasury Regulations explain that medical care includes x-rays, labs and other diagnostic procedures. Revenue Ruling 2007-72 addresses three specific types of diagnostic procedures; an annual physical examination by a physician, a full-body electronic scan by a clinic technician and the purchase of a pregnancy test kit.

With regard to the annual physical examination, the IRS reasoned that even though the individual may not be experiencing any symptoms of an illness, the exam still qualifies as medical care. The full body scan also qualifies as medical care and does not require the individual to experience specific symptoms of an illness or even procure a physician's recommendation for the scan. The purchase of a pregnancy kit qualifies as medical care because it relates to testing of a change in body function.

Plan sponsors that reference Code section 213(a) in either a group health plan or health flexible spending account plan should notify participants of the availability of this expanded coverage. Summary plan descriptions that list types of medical care or procedures that are covered may need to be revised

Michelle I. Pretlow is an Associate in Littler's Washington, D.C. office. If you would like further information, please contact your Littler attorney at 1.888.Littler, info@littler.com, or Ms. Pretlow at mpretlow@littler.com.
