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EDUCATION

ALERT

SCHOOL DISTRICTS BEWARE – LIMIT THE USE OF "OPT-OUT" OR HEALTH BENEFIT "WAIVERS"

For many years, school districts have utilized “opt-out” or “waiver” payments to provide an incentive for employees to not take the health benefit plans offered by districts to its employees. These “waivers” were used most heavily when districts provided for 100% of the premiums for health benefit coverage. As the employees’ share for health benefit premiums has increased, these waiver payments have had less success or certainly had less significance that they once had in the overall health benefit planning for an employer.

“Opt-out” provisions are very popular with many employers. However, while they are not yet prohibited, they will come under additional scrutiny due to the new “temporary high risk insurance pool” funded by

the federal government, which will remain in existence until January 1, 2014. Basically, the high risk insurance pool will cover those individuals who have high risk claims and have not had health insurance for a period of at least 6 months. It is expected that the government will attempt to recoup any amounts it pays for high risk claims from employers that incentives their employees not to enroll in employer-provided coverage. Therefore, while it is not illegal to provide an opt-out bonus to its employees, the district faces some risk in continuing to do so.

If you have questions about this Alert, please contact Jeffrey T. Sultanik at 610.397.6515 or jsultanik@foxrothschild.com or any member of Fox Rothschild’s [Education Practice](#).



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