



# Health Reform Update

*An Ongoing Analysis Concerning the Direction of Healthcare Policy*

## Health Care Reform Timeline for Employer Compliance

This timeline provides some of the key dates associated with the recently enacted health care reform legislation.

### 2010 – IMMEDIATE REFORMS

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#### March

- Plans in existence on or before March 23, 2010 are considered grandfathered.

#### June

- **Retiree-plan Assistance**

A temporary government reinsurance program for employer-provided retiree (age 55-64) benefits. May reimburse up to 80% of the cost of claims between \$15,000 and \$90,000. Effective June 21, 2010.

- **Small Business Tax Credits**

Tax credits for small business (no more than 25 employees and average annual wage of no more than \$50,000). Up to a 35% tax credit when the employer contributes at least 50% of the premium costs.

#### Plan Years beginning on or after September 23, 2010

*(January 1, 2011 for calendar-year plans)*

- **Lifetime & Annual Maximums**

Prohibition on lifetime and unreasonable annual limitations on essential benefits (including grandfathered plans).<sup>1</sup>

- **Adult Children**

Requires coverage for adult-aged children to age 26<sup>2</sup> if no other employer-sponsored coverage is available (including grandfathered plans).<sup>3</sup>

- **Preventive Care**

Requires coverage for most preventive care services (does not apply to grandfathered plans).

- **Children & Pre-existing Conditions**

Prohibits pre-existing condition exclusions on children under age 19 enrolled in the group health plan (including grandfathered plans).

- **Discriminatory Plan Designs**

Imposes the Section 105(h) nondiscrimination requirements on insured plans (does not apply to grandfathered plans).

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<sup>1</sup> For plan years beginning in or after 2014, no annual limitations on essential benefits.

<sup>2</sup> There is discrepancy as to what age coverage is provided to, until age 26 or through the 26<sup>th</sup> year (i.e. before the 27<sup>th</sup> birthday). The statutory language states “until the child turns 26” however much of the government’s own guidance on this issue states through age 26. Clarification on this point is needed.

<sup>3</sup> For plan years beginning in or after 2014, there is no requirement that other coverage is not available.



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- **Medical Loss Ratio**  
Plans are required to spend 85% of premium on claims for large plans and 80% for small plans. Rebates are available to enrollees if these thresholds are not satisfied.

## 2011

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- **W-2 Reporting**  
Employers are required to include the value of health coverage on an employee's W-2.
- **Flexible Spending Accounts**  
Over the counter (OTC) products can no longer be reimbursed through the health FSA, HRA, HSA unless prescribed by a doctor.
- **HSA Tax Penalty**  
20% penalty tax on distributions from the HSA that are not for qualified medical expenses.
- **Simple Cafeteria Plans**  
These plans will be available to small businesses with no more than 100 employees.
- **Small Employer Workplace Wellness Grants**  
Grants become available to certain eligible employers<sup>4</sup> that establish Comprehensive Workplace Wellness Programs beginning fiscal year 2011.

## By March 23, 2012

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- **Benefit Summary**  
Insurers and plan sponsors will need to provide a 4-page summary of benefits to plan participants.

## 2013

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- **Flexible Spending Accounts**  
\$2,500 cap on the health FSA.
- **Medicare Tax**  
Affects individuals earning more than \$200,000 and joint filers earning more than \$250,000.
  - Increase in the Medicare portion of FICA taxes from 1.45% to 2.35%; and
  - A 3.8% Medicare tax imposed on net investment income.
- **Fee on Health Plans**
  - Health plans will be assessed a fee to fund a Patient-Centered Outcome Research program.
  - *Insured plans:* Insurance carriers will pay a fee that equals \$1 in the first year (\$2 in the following years) multiplied by the average number of lives insured under a group health plan policy.

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<sup>4</sup> The term "eligible employer" means an employer that (1) employs less than 100 employees who work 25 hours of more per week and (2) does not provide a workplace wellness program as of March 23, 2010.



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- *Self-Insured plans:* The Plan Sponsor (generally the employer) of a self-insured plan will pay a fee that equals \$1 in the first year (\$2 in the following years) multiplied by the average number of lives covered by the group health plan.
- This provision expires September 30, 2019.
- **Retiree Prescriptions**  
Reduce employer deduction for retiree prescription drug expenses by the amount of the excludible federal subsidy payment received for Part D prescription drug plans for retirees.

## 2014

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- **Pre-Existing Conditions**  
Prohibit all pre-existing condition exclusions (including grandfathered plans).
- **Benefit Waiting Periods**  
Prohibit waiting periods in excess of 90 days (including grandfathered plans).
- **Individual and Small Group Options**  
Exchanges established for individual and small group (1-100 employees or 1-50 employees, depending on state law).
- **Mandated Coverage**  
Non-grandfathered group health plans and Exchange plans meet certain mandated levels of coverage including out-of-pocket cost sharing (tied to HSA qualified plan limits).
- **Rating**  
Modified community rating for individual and family coverage in the small group market.
- **Individual Mandate**  
Individuals will be fined, beginning in 2014 for not having approved health care coverage.
- **Employer Mandates**
  - Employers with 50 or more employees<sup>5</sup> will face penalties if full-time employees<sup>6</sup> receive government assistance through the Exchange.
  - Employer must offer free-choice vouchers to certain qualified employees.
  - Automatic enrollment with employee opt-out for employers with more than 200 employees.
  - Increased tax credits for small employers who provide health plan coverage through the Exchange for 2 years.
  - Employer must provide notice to employees of the existence of the Exchange.
  - Employer must provide notice to the IRS and participants with information detailing the coverage under the employer-sponsored health plan.

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<sup>5</sup> There is inconsistency in the statute as to who is a large employer for purposes of the penalty. As defined, the term *applicable large employer* means, with respect to a calendar year, an employer who employed on average at least 50 full-time employees on business days during the preceding calendar year. *Sec. 1513*. Elsewhere, language indicates the penalties apply to employers with more than 50 employees. For purposes of this summary, it is assumed that the penalty applies to employers with 50 or more employees. Clarification is needed.

<sup>6</sup> The statute defines a full-time employee as an employee who is employed on average at least 30 hours per week.



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- **Wellness Programs**  
Wellness program incentives may increase to 30% of the cost of coverage for a reward based program.
- **Health Insurance Carriers**  
New fees imposed in health insurance carriers.

## 2018

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- **High Cost Health Plans**  
40% excise tax imposed on high-cost health plans (above \$10,200 for single coverage and \$27,500 for family coverage).

## RESOURCES

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- Patient Protection Act:  
[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111\\_cong\\_bills&docid=f:h3590enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h3590enr.txt.pdf)
- Reconciliation bill:  
[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111\\_cong\\_bills&docid=f:h4872enr.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4872enr.txt.pdf)

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