

2010 Employer's Guide to Health Care Reform (by Effective Date)

April 8, 2010

Effective Date	Provision	Patient Protection and Affordable Care Act (H.R. 3590) & Health Care and Education Affordability Act of 2010 (H.R. 4872) H.R. 3590 enacted by President Obama March 23, 2010. H.R. 4872 enacted by President Obama March 30, 2010.
<p>Health care reform may be the law but many questions still remain. The information contained in this document is an initial summary of the law and is subject to change depending upon the interpretations by federal agency regulations (Department of Labor, Internal Revenue Service, and Health & Human Services). Regulations are not expected earlier than Summer 2010. We will keep you updated as the regulatory process continues.</p>		
Effective 2010...		
Jun. 23, 2010	Temporary Reinsurance for Early Retiree Coverage	Establishes a temporary reinsurance program for certain high cost claims incurred by group health plans offering coverage to non-Medicare eligible retirees age 55+. Reinsurance program will pay 80% of cost of eligible claims \$15,000-\$90,000 (indexed by CPI). Reimbursements can only be used to lower plan costs. Eligible group health plans must include chronic disease management programs. Plans must submit application for participation to HHS. Program expires January 1, 2014.
Sept. 23, 2010	Immediate Impact to Existing Group Health Plans	<p>For plan years beginning after 9/23/2010, all plans must remove lifetime limits, eliminate annual limits on Essential Benefits (unless explicitly permitted by HHS), provide coverage for children up to age 26 (only if adult child has no access to other employer-sponsored health coverage) and eliminate the pre-existing condition limitation on children under age 19. Non-grandfathered plans must also remove cost-sharing on preventive services and cover emergency services without prior authorization at in-network level.</p> <p>Clarifies that group health income tax exclusion includes coverage of children to age 26.</p> <p>Prohibits limiting eligibility for fully-insured health plans in order to discriminate in favor of highly compensated employees (e.g. executive carve out health plans). Same limitation already exists for self-insured health plans. Excludes grandfathered plans.</p> <p>Requires self-insured plans establish external review processes in compliance with NAIC standards. Fully-insured plans already comply with state external review requirements. Excludes grandfathered plans.</p>
Upon receipt of Regs.	Automatic Enrollment (200+ Employees)	Large employers (200 or more full-time employees) will be required to automatically enroll all employees in the group health plan. Employees can opt out. Implementation immediate upon release of regulations by the DOL.
	Small Business Tax Credit (< 25 Employees)	Employers with less than 25 full-time equivalent employees (40 hours per week) with annual average wages of \$50,000 (indexed starting 2014) who contribute more than 50% towards the cost of coverage may be eligible for a small business tax credit. For tax years 2010-2013, the tax credit is equal to 35% (or 25% for tax-exempt organizations) of the employer contributions up to HHS benchmark premiums for the geographic area. Effective tax years beginning 2014, the tax credit will only be available for 2 consecutive tax years and coverage must be purchased through an Exchange. The tax credit will be equal to 50% (or 35% for tax exempt organizations) of the employer contributions up to HHS benchmark premiums. Certain employee shareholder and owner wages are excluded in calculating the employer's average annual wages. Employers with less than 10 full-time employees and annual average wages of \$25,000 may be eligible for a larger tax credit up to the full contribution.
	Medicare Part D "Donut Hole"	In 2010, Medicare Part D beneficiaries who incur prescription costs within the Part D "donut hole" are eligible for up to a \$250 rebate. Beginning 2011, the coinsurance for the Part D "donut hole" will be 93%, decreasing each year until settling at 25% in 2020.

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Effective 2011...		
	New Long-Term Care Program (CLASS Act)	Establishes a new long-term care program funded through voluntary payroll deductions. Employees are automatically enrolled but may opt-out. Employers must collect the new payroll deductions effective January 1, 2011. Long-term care program includes 5 year vesting period and \$50 per day benefit.
	Over-the-Counter Drugs	Excludes over-the-counter drugs from reimbursement through a health FSA, HRA, or HSAs, though may be allowed if prescribed by a physician.
	HSA Distributions	Increases the penalty tax on non-qualified HSA distributions from 10% to 20%.
	Medical Loss Ratios	Limits medical loss ratios of fully-insured plans, including grandfathered plans, to no less than 80% (for small employers with less than 100 employees) or 85% (for large employers with more than 100 employees), based upon NAIC standards due by 12/31/2010.
	Grants to Establish Wellness Plans (< 100 Employees)	Grants will be available for small employers (less than 100 employees) to establish new comprehensive workplace wellness programs. Eligible wellness programs must include health awareness initiatives, efforts to engage employees, initiatives to change unhealthy behaviors and lifestyle choices, and supportive environment efforts. Grants will be available for 5 years beginning fiscal year 2011.
	W-2 Reporting Requirements	Employer must report aggregate cost of employer-provided health coverage (excluding employee health FSA contributions) on the employee's W-2 beginning with the 2011 tax year.
	Industry Taxes	Imposes new fees on health care industry, based upon market share, including pharmaceutical manufacturers (2011), medical device manufacturers (2013), and health insurance companies (2014).
Effective 2012...		
March, 2012	Standard Benefit Summary	All plans, including grandfathered plans, must provide a standardized summary of benefits to all employees (1) prior to enrollment and (2) with the SPD. HHS (in conjunction with NAIC) will develop a standardized format, content, and definition of terms which will be released by March, 2011.
	Plan Change Notice	All plans, including grandfathered plans, must provide prospective notice of plan changes 60 days prior to effective date.
Effective 2013...		
March, 2013	Notice of Availability of Exchanges	Employers will need to provide all newly hired employees with a notice of availability of coverage options, explaining the existence of Exchanges, and how, if plan doesn't provide minimum level of coverage, the employee may be eligible for federal premium assistance. All current employees will need to receive this notice no later than 3/1/2013.
	Health FSA Limit	Limits the annual contributions to a health flexible spending account (FSA) to \$2,500.
	Medicare Part D Retiree Drug Subsidy	Eliminates the tax deduction for employers who receive Medicare Part D retiree drug subsidy.
	Medicare Part A Tax Increase	Increases the employee-portion of Medicare payroll taxes from 1.45% to 2.35% on earnings over \$200,000 (or \$250,000 if married filing jointly). Income thresholds are not indexed. No increase to employer-portion of Medicare payroll tax.
		Adds a new 3.8% Medicare tax on unearned income (capital gains, interest, dividends, and other investment income) for individuals who's adjusted gross income (AGI) is over \$200,000 (or \$250,000 if married filing jointly). Income thresholds are not indexed.

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Effective 2014...		
	Individual Mandate	Imposes penalty tax on individuals who do not have qualifying coverage. Individuals whose household income is less than 400% of federal poverty level (FPL) will be eligible for federal premium tax credits and cost-sharing subsidies. Medicaid eligibility has also been expanded to individuals earning less than 133% of FPL (excluding the asset test).
	Employer Mandate (50+ employees)	Employers with 50+ full-time equivalent employees (average 30 hours per week) who do not offer affordable minimum bronze level coverage to full-time employees may pay a penalty tax. <ul style="list-style-type: none"> • Bronze level coverage must pay at least 60% of benefit costs. Higher levels of coverage (Silver, Gold, & Platinum) provide 70%, 80% or 90% of benefit costs respectively. • Affordable coverage means that the employee cost is less than 9.5% of household income.
	Employer Mandate Penalty Tax	Penalty only applies if at least 1 full-time employee receives federal premium assistance. <ul style="list-style-type: none"> • If not offering at least bronze level coverage, penalty \$2,000 per full-time employee, excluding first 30 employees. • If offering coverage that is unaffordable, penalty is the lesser of \$3,000 per premium assistance recipient or \$2,000 per full-time employee.
	Free Choice Voucher (No Penalty)	If employee cost of coverage is between 8-9.8% of household income, employer may provide a Free Choice Voucher equal to the most generous employer contribution. Employee can use voucher to purchase coverage in an Exchange. Employer providing voucher would not be subject to penalty if employee receives federal premium assistance.
	Essential Benefit Plan Requirements	Requires coverage of ambulatory services, emergency services (at in-network level for non-participating providers), hospitalization, maternity & newborn care, mental health & substance abuse services (including behavioral health treatment), prescription drugs, rehabilitative and habilitative services, laboratory services, wellness and preventive services (no-cost sharing on preventive), chronic disease management, pediatric services (including oral and vision care). Excludes large employer (100+ employees), self-insured, and grandfathered plans; however, may be subject to penalty tax under the employer mandate provision. All plans, including grandfathered plans, must cover children to age 26 (regardless of access to other employer-sponsored health coverage), remove lifetime limits, remove annual limits on Essential Benefits, eliminate pre-existing condition limitations and limit waiting periods to 90 days. Maximum out-of-pocket limit equal to the annual HSA limits (2010: \$5,950 individual, \$11,900 family). Excludes grandfathered plans. Maximum deductible for fully-insured small group plans (100 or fewer employees) is \$2,000 individual and \$4,000 family, unless the employer contributes to an FSA, HRA, or HSAs in order to offset the higher deductible. Excludes grandfathered plans.
	Rating Methodology (<100 Employees)	Small employer (less than 100 employees) fully-insured health premiums can only be rated based upon individual/family coverage, geography, age, and tobacco use. States may establish multiple geographic rating areas within their state. Also applies to large employers who purchase coverage through an Exchange.

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Effective 2014... (continued)		
	Incentives for Participation in Wellness Programs	Allows rewards for participation in wellness programs with health-related standards of up to 30% (or 50%, at discretion of HHS) of the cost of coverage in the form of premium discounts, cost-sharing waivers, or benefits that would not otherwise have been provided. Plans are still required to follow HIPAA wellness rules.
	Employer Reporting (50+ Employees)	Large employers (50 or more employees) or insurers/carriers must report plan participation and employer contribution data to IRS annually.
	Health Insurance Exchange (<100 Employees)	Small employers (less than 100 employees) and individuals will be able to purchase coverage from a state-based Health Insurance Exchange.
Effective 2017...		
	Health Insurance Exchange (100+ Employees)	States may permit large employers (100 or more employees) to purchase coverage from an Exchange.
Effective 2018...		
	High Cost "Cadillac" Plan Excise Tax	Imposes 40% excise tax on providers of health plans costing more than \$10,200 for individual coverage and \$27,500 for family coverage, with adjustments if the group's age and gender demographics differ from a national risk pool. Thresholds automatically increased in 2018 if medical trend (based upon Federal Employee Plan) increases higher than expected. Beginning 2020, thresholds increase by CPI-U (not medical trend).
		Higher threshold of \$11,850/\$30,950 for retirees and high risk professions including law enforcement, fire fighters, EMT, construction, mining, agriculture, forestry, & fishing industries.
		Plan costs include total medical premium, health FSA reimbursements, health reimbursement arrangements (HRAs), employer contributions to HSAs, and other supplementary health insurance. Plan costs exclude coverage for dental and vision plans.
		Excise tax is applied proportionally to all plan providers including insurer for fully-insured plans and employer for self-insured plans (e.g. ASO, health FSA, HRA, employer contributions to HSAs). For example, if an employer has a fully-insured medical plan (90% of total plan cost) and a health FSA plan (10% of total plan cost), the insurer/carrier would be responsible for 90% of the excise tax and the employer would be responsible for 10% of the excise tax.