



Health Care Reform Bulletin

March 31, 2010

**FREE
WEBINAR**

Join us for an IMA University Webinar dedicated to Health Care Reform. We're partnering with the Council of Insurance Agents & Brokers to bring you the latest actionable information about the outcome of Health Care Reform legislation.

Friday, April 9, 2010

10 a.m. MDT. (9 a.m. PDT, 11 a.m. CDT, 12 p.m. EDT)

You will hear:

- A detailed overview of the new Health Care Reform legislation
- Impact on employers and employees
- Information about the first steps in implementation of Health Care Reform
- Question and Answer session

To register, go to <https://cc.readytalk.com/cc/schedule/display.do?udc=hxxa6td6i3yg>

Overview of Health Care Reform Legislation

Most of the latest changes to the health care reform legislation won't have a direct impact on employers. However, since things are moving so quickly, this bulletin focuses on the changes to the final legislation since our last communication on Wednesday, March 24.

The last piece of health care reform legislation (sometimes referred to as a "companion bill", "fix-it bill" or the "sidecar bill") was approved by Congress March 25, 2010 and signed into law by President Obama March 30, 2010.

Changes Passed in the Final Legislation

There are a few changes to the massive health care bill:

- Increases government subsidies to help individuals purchase health insurance.
- Closes a gap in prescription-drug coverage under Medicare.
- Delays the effective date of a new tax on high-value ("Cadillac") insurance plans, pushing implementation back to 2018 from 2013.
- Strips out special interest deals struck by senators.
- Removes two provisions concerning student loans.
- Further defines "grandfathered" benefit plans as a "health plan in effect before the date of enactment is considered 'grandfathered coverage'." It retains this status until a change is made, e.g., to a new carrier or for any change in benefits.
- Establishes a new public Long Term Care program.
- Requires all employers with more than 200 employees to enroll their employees (there is an employee opt out provision).

Frequently Asked Questions



What is Health Care Reform?

The big change for employers is a requirement to provide health insurance coverage or, if not, pay into the Health Insurance Exchange Trust Fund. This payment is often referred to as a "penalty," a "pay or play," or a "free rider surcharge." There are exceptions for certain small employers, some of which will be provided a credit to offset the costs of providing coverage.

The most sweeping change resulting from health care reform is that individuals must have health insurance or pay a penalty. Health Insurance Exchanges (likely in the form of an online portal, or online insurance marketplace) will be established in each state so that individuals and small employers can purchase coverage. Premium credits and cost-sharing credits will be available to low income individuals.

Additionally, Medicaid will be expanded, and Medicare benefits will change.

Overall, health insurance plans will need to meet certain standards and requirements to ensure that the plans are providing adequate coverage, a definition of which will be created through future regulatory action. Some of these standards are included in the health care reform law. For example, insurers will no longer be able to impose lifetime maximum benefit amounts, and people won't be denied coverage for having a pre-existing condition.



Is there a Public Option?

No.



Is there an individual mandate?

Yes. U.S. citizens and legal residents are required to have health insurance or pay a fine. Some are exempted from the requirement due to financial hardship, religious reasons or other exemptions.

In 2014, the penalty for not having coverage is \$95 or one percent of an individual's income, whichever is higher. In 2016, this penalty rises to \$695 or 2.5 percent of income.



How will individuals purchase insurance / What is a Health Insurance Exchange?

Massachusetts established the first "Health Insurance Exchange" in 2006. The purpose is to facilitate the purchase of coverage by individuals and small groups of up to 100 employees in size. There is a general consensus that the Massachusetts exchange has been successful at providing access to coverage. The idea of an exchange, portal, marketplace or "connector" has been included in each recent round of health care reform proposals.

The final legislation mandates that state-based exchanges be established, which will offer online portals to direct individuals to insurance options. If states do not choose to establish an exchange, the legislation allows for the Department of Health and Human Services to establish an exchange in those states.



Are employers required to buy insurance for employees?

Employers with more than 50 employees – These "applicable large employers" are defined as an employer that employs "an average of at least 50 employees on business days during the preceding calendar year." Beginning Jan. 1, 2014, these employers that do not offer coverage and have at least one full-time employee who receives a premium tax credit are assessed a fee of \$2,000 per full-time employee, excluding the first 30 employees. Employers with more than 50 employees that do offer coverage but have at least one full-time employee receiving a premium tax credit will pay the lesser of \$3,000 for each employee receiving a premium credit or \$750 for each full-time employee.

Frequently Asked Questions (cont. from page 2)



What Specific Definitions Impact the Construction Industry?

For the construction industry only, the responsibility requirement to provide affordable coverage applies to employers of more than five people with annual payrolls of more than \$250,000. There is no exemption.

Beginning 2014, construction industry employers with an average of at least 5 full-time employees during the prior calendar year and whose annual payroll expenses exceed \$250,000 for such preceding calendar year will be subject to the large employer requirements and similar fees as stated in the paragraph above.



What about small employers? / What help is available to small employers?

Small employers with no more than 25 employees and average annual wages of less than \$50,000 that purchase health insurance for employees are entitled to a tax credit.

Additionally, the law provides grants for up to five years to small employers with less than 100 employees who work 25+ hours per week to establish new wellness programs, beginning in fiscal year 2011.



What about wellness incentives?

It also permits employers to offer employees rewards in the form of premium discounts, waivers of cost-sharing requirements, or benefits that would otherwise not be provided of up to 30 percent (or 50 percent if Health and Human Services deems appropriate) of the cost of coverage for participating in a wellness program and meeting certain health-related standards.



What about the Vouchers?

Also effective Jan. 1, 2014, employers that offer coverage to their employees must provide a free choice voucher to employees with incomes less than 400 percent of the Federal Poverty Level whose share of the premium exceeds 8 percent but is less than 9.8 percent of their income and who choose to enroll in a plan using the Health Insurance Exchange. The voucher amount is equal to what the employer would have paid to provide coverage to the employee under the employer's plan and will be used to offset the premium costs for the plan in which the employee is enrolled. Employers providing free choice vouchers will not be subject to penalties for employees that receive premium credits in the Health Insurance Exchange.



What does Health Care Reform mean for retiree insurance?

At the federal level for all groups, a temporary reinsurance program would be created for employers providing health insurance coverage to retirees over age 55 who are not eligible for Medicare. The program would reimburse employers or insurers for 80 percent of retiree claims between \$15,000 and \$90,000. The payments from the reinsurance program will be used to lower the costs for enrollees in the employer plan. Congress would appropriate \$5 billion to finance the program, which would be effective 90 days following enactment through 2014 or until funds are exhausted.

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What plan design changes will there be?

Plan Design Changes

6 Months Following Enactment

- Dependent coverage will be available for children up to age 26 (married or unmarried, and not insured elsewhere) for all individual and group policies (grandfathered plans may exclude dependent children eligible for other employer-sponsored coverage but must remove such limitation in 2014).
- Individual and group health plans are prohibited from placing lifetime limits on the dollar value of coverage.
- Individual and group health plans cannot place annual limits on the dollar value of coverage, unless approved by the Department of Health and Human Services, and all annual limits must be removed by 2014.
- Plans may not impose a pre-existing condition limitation or exclusion on children under age 19.
- Plans must fully pay for preventive care services without any member out-of-pocket responsibility.
- Internal and external appeal rights will be mandated for all group plans (fully insured and self funded) and employers will be required to notify participants of these new rights. While this provision is effective 6 months following enactment, it actually relies on HHS or the State to establish the minimum standards first and thus may be delayed.

Further than Six Months Out

- Starting 2011, over-the-counter drugs will no longer be reimbursable without a prescription. Prescription drugs are still reimbursable.
- In 2013, annual FSA contributions are limited to \$2,500 and will be indexed by CPI-U in future years.

In 2014:

- Individual and group health plans cannot impose preexisting condition exclusions.
- Deductibles for health plans in the small group market (fewer than 101 employees, or fewer than 51 in states opting to lower the small group definition through 2016) are limited to \$2,000 for individuals and \$4,000 for families unless contributions are offered that offset deductible amounts above these limits.
- Employers cannot have a waiting period for coverage of more than 90 days. There are no grandfathering provisions for this.

Market Reform

- Carriers are prohibited from rescinding coverage except in cases of fraud, effective six months following enactment.
- Guarantee issue and renewability is required and premium rating variation must only be based on age (limited to 3 to 1 ratio), premium rating area, family composition, and tobacco use (limited to 1.5 to 1 ratio), effective Jan. 1, 2014.
- An expanded claims appeal process will be put in place.

Be sure to watch for future IMA Health Care Reform Bulletins including information about:

- **Cadillac Plan Taxes**
- **Medicare Part D Implications**
- **Calculation of Part Time Employees**
- **Retiree Provisions**
- **Large Employer Reporting Requirements**