

THE **IMPACT** OF HEALTH CARE
REFORM ON EMPLOYERS

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→ **The Patient Protection and Affordable Care Act** – better known as health care reform legislation – will have a major impact on the way health insurers do business. Although many of the reforms outlined in the new law affect health insurance companies, the legislation has a direct impact on employers of all sizes, as well. Two of the most sweeping changes – the mandate that all individuals obtain coverage under a qualified health insurance plan along with the requirement most employers offer qualified health insurance to their employees – are expected to result in coverage for an estimated 32 million Americans who currently have no health insurance.

Ovation continues to study the law and monitor its implementation. Supplemental and auxiliary insurance products, which are offered in addition to qualified health insurance, will not be directly affected by health care reform. Voluntary benefits and the need for benefits communication and education will remain a very relevant part of the benefits package you offer your employees.

Below are some of the key components of health care reform in chronological order and how they may affect employers over the next several years.

2010

Many changes will take place in 2010 and 2011. Most of these changes affecting employer-sponsored health plans are based on the policy plan year. For some employers, these changes may apply in 2010 (for plans renewing after Sept. 23, 2010), but for other employers, they will apply in 2011. In this report, those components of the plan are in the 2010 section.

SMALL EMPLOYER HEALTH INSURANCE CREDIT

A tax credit is available to certain small employers that provide health insurance to their employees.

To be eligible for the credit, the employer must:

- Have fewer than 25 full-time equivalent employees (FTEs) for the taxable year.
- Have average annual wages of its employees be less than \$50,000 per FTE for the year.
- Maintain a “qualifying arrangement.” A qualifying arrangement is one under which the employer pays the premiums for each employee enrolled in health insurance coverage offered by the employer in an amount equal to a uniform percentage that is not less than 50 percent of the premium cost of the coverage.

→ **Impact on employers** – An eligible employer can benefit from the tax savings from this credit to help with the cost of eligible health insurance coverage.

THE END OF PRE-EXISTING CONDITION LIMITATIONS FOR INDIVIDUALS UNDER AGE 19

Health insurance companies will be required to make their policies available to individuals with no pre-existing condition exclusions applied. For people under age 19, this takes effect for plan years beginning Sept. 23, 2010. This will apply to all individuals in 2014.

→ **Impact on employers** – The impact will be limited as most employer-sponsored health coverage does not include pre-existing condition exclusions.

GROUP HEALTH PLANS AND HEALTH INSURERS WILL BE REQUIRED TO PAY FOR THE ENTIRE COST OF PREVENTIVE SERVICES AND CANNOT ASK EMPLOYEES TO SHARE IN THIS COST.



MEDICAL LOSS RATIOS

Health insurers will be required to maintain medical loss ratios of 80 percent for small group or individual plans and 85 percent for large group plans. Insurers must provide rebates to covered individuals if loss ratios fall below these levels.

→ **Impact on employers** – The restriction on loss ratios could decrease premiums for employers if the insurer is currently spending less than 80 to 85 percent of each dollar on medical expenses.

PREVENTIVE CARE COVERED AT 100 PERCENT

Group health plans and health insurers will be required to pay for the entire cost of preventive services and cannot ask employees to share in this cost. This is designed to motivate insured individuals to receive routine preventive care and screenings, such as PAP smears, mammograms, PSA tests and colonoscopies.

→ **Impact on employers** – Employers who do not currently offer plans that cover preventive services at 100 percent will need to alter their coverage to comply with this requirement.

DEPENDENT COVERAGE

Group health plans and health insurers that cover dependent children must cover all children (married and unmarried) of the insured until the child reaches age 26, provided the child is not eligible for employer-provided coverage him/herself.

→ **Impact on employers** – This may create an administrative burden on employers who will need to enroll these dependents.

ANNUAL AND LIFETIME MAXIMUMS

Health insurance plans may not impose lifetime limits on the value of any essential benefits, as established under the law. Annual limits will also be restricted by regulations of the Secretary of Health and Human Services (HHS).

→ **Impact on employers** – Many benefits plans will need to be amended to comply with removal of maximums for essential benefits.

HELP FOR NURSING MOTHERS IN THE WORKPLACE

Employers will be required to provide reasonable break time for an employee to express breast milk for a nursing child for one year after the child's birth. Employers will also be required to provide a lactation area for nursing mothers.

→ **Impact on employers** – Employers who do not currently provide this type of location will need to make accommodations for employees.

ACCESS TO PROVIDER CHOICE/EMERGENCY SERVICES

The legislation requires group health plans and health insurers to treat and charge insured individuals for emergency services received from out-of-network providers the same way they do for in-network emergency services.

→ **Impact on employers** – Many employers and health plans already follow this requirement. Those who do not will need to amend their practices to comply.

HEALTH FSAS, HRAS AND HSAS MAY NOT REIMBURSE OVER-THE-COUNTER MEDICINES WITHOUT A DOCTOR'S PRESCRIPTION.



2011

W-2 REPORTING

Employers will be required to include on employees' W-2 forms the value of plans subject to the excise tax included in the legislation (see 2018 for more information on the excise tax). This takes effect for W-2s filed in 2012 for the 2011 tax year. Amounts will be reported for information only and will not be included in employee's taxable income.

→ **Impact on employers** – This may create an administrative burden on employers who will need to calculate these values.

CAFETERIA PLAN CHANGES

Health FSAs, HRAs and HSAs may not reimburse over-the-counter medicines without a doctor's prescription. Cafeteria plans of small employers will also have a new safe harbor from the nondiscrimination rules. For purposes of this rule, a small employer is one who employs 100 or fewer employees during either of the two years preceding the year for which the discrimination test is being run.

2012

SUMMARY DOCUMENTS

Health insurers and administrators of self-funded health plans will be required to provide a summary of the provisions of the plan, and HHS will dictate the format of these documents.

Some elements include:

- Summary cannot be longer than four pages
- Must use 12 point font or larger
- Must be "culturally appropriate"
- Must use language an average employee can understand
- Must use uniform definitions, terms and standardized information about benefits provided

→ **Impact on employers** – Impact should be limited because insurers will produce this documentation in most cases. Employers may need to distribute these documents to employees.

WRITTEN NOTICE OF INSURANCE EXCHANGES

Employers will be required to provide written notice to employees about the existence of insurance exchanges and the government subsidies that may be available to them.

→ **Impact on employers** – This may create an administrative burden on employers who will need to create and distribute the written notice.

EMPLOYERS WILL BE REQUIRED TO OFFER QUALIFIED HEALTH INSURANCE TO THEIR EMPLOYEES OR PAY A PENALTY IN SOME CIRCUMSTANCES.



2013

FSA CAP

Health flexible spending arrangement (FSAs) salary reductions are capped at \$2,500 per year. That amount is indexed for inflation beginning in 2014.

→ **Impact on employers** – Benefits plans will need to be amended to comply with the cap.

MEDICAL RETIREE PART D SUBSIDY

The deduction previously permitted for amounts received by an employer as a Medical Retiree Part D subsidy is eliminated.

→ **Impact on employers** – Employers who receive the subsidy will incur higher tax liabilities.

MEDICARE TAXES

A 0.9 percent increase in Medicare taxes will go into effect for those earning more than \$200,000 a year for single individuals and \$250,000 for joint filers. The increase is on the employee portion of the tax only.

→ **Impact on employers** – Employers will be required to withhold the additional tax.

2014

COVERAGE MANDATES

Individuals will be required to obtain coverage under a qualified health insurance plan or pay a tax penalty. **Employers** will be required to offer qualified health insurance to their employees or pay a penalty in some circumstances.

- Small businesses with fewer than 50 employees will be exempt.
- If an employer is subject to the penalty and fails to offer any full-time employee health coverage, and if any full-time employee enrolls in the exchange and receives a tax subsidy to purchase coverage, the employer is subject to a penalty equal to the number of full-time employees it has times \$2,000 per year. For purposes of calculating the penalty, however, the first 30 employees are disregarded.
- Employers who offer coverage but have employees whose required contribution for that coverage would be between 8 and 9.8 percent of household income must provide employees with a "free choice voucher." The voucher is provided only to eligible employees who do not participate in the employer-sponsored health plan. The voucher must be equal to the amount of the contribution that the employer would have made to its own plan and

can be used toward the purchase of plans through the exchanges

→ **Impact on employers** – Employers will have to report whether they do or do not comply with the mandate and pay any resulting penalty for non-compliance.

THE END OF PRE-EXISTING CONDITION LIMITATIONS FOR ALL

Health insurance companies will be required to make their policies available to all individuals with no pre-existing condition exclusions applied.

→ **Impact on employers** – The impact will be limited as most employer-sponsored health coverage does not include pre-existing condition exclusions.

LIMIT ON WAITING PERIODS

For group health plans and health insurers, the waiting period for benefit plans will not be permitted to exceed 90 days.

→ **Impact on employers** – Employers who currently offer a waiting period longer than 90 days will have to change their plan to meet this requirement.

"HIGH-COST" HEALTH PLANS WILL BE SUBJECT TO AN EXCISE TAX, PAID BY THE INSURANCE COMPANY SELLING THE PLAN.



2018

EXCISE TAX

"High-cost" health plans will be subject to an excise tax, paid by the insurance company selling the plan. A plan is considered a "high-cost" plan if the aggregate annual value of the coverage provided by an employer to an employee is greater than \$10,200 for single coverage and \$27,500 for family coverage. Special rules apply for plans for retirees and em-

ployees in high-risk professions and multi-employer plans. This provision is intended to encourage employers to hold down the value of the plans they offer to employees and could possibly result in reduced medical spending.

→ **Impact on employers** – Employers will be required to calculate the value of employees' benefit plans and notify the insurance carriers of their pro-rata share of the excise tax.

OTHER IMPACTS TO EMPLOYERS

GRANDFATHERED PLANS

Plans in effect as of March 23, 2010, will be considered "grandfathered" for purposes of compliance with market reforms. Employers will still be able to enroll new employees and family members in their existing health plans. Employers will be restricted in making changes to their grandfathered plans. A plan that meets that definition can lose its grandfathered status if it makes any of the following changes:

- Eliminates a benefit to diagnose or treat a particular condition
- Increases the coinsurance percentage by any amount
- Increases the deductible or out-of-pocket maximum by more than medical inflation plus 15 percent
- Increases the copayment by more than the greater of \$5 or medical inflation plus 15 percent
- Decreases the employer contribution by more than 5 percent below the rate in effect on March 23, 2010

- Imposes an annual or lifetime limit if it didn't have one before
- Lowers the lifetime limit in effect on March 23, 2010
- Decreases the annual limit in effect on March 23, 2010

Plans that are grandfathered will not be required to comply with the following market reforms:

- Coverage of preventive care
- Prohibition against discriminating in favor of highly-compensated employees
- Guaranteed issue and renewability (except as already required by HIPAA)
- Community rating
- Requirement to provide essential benefits
- Cost-sharing limitations.

EMPLOYERS WITH MORE THAN 200 EMPLOYEES WHO OFFER A HEALTH PLAN MUST AUTOMATICALLY ENROLL ALL NEW EMPLOYEES IN THE PLAN.



AUTO ENROLL

Employers with more than 200 employees who offer a health plan must automatically enroll all new employees in the plan. The employee will have the opportunity to opt out of the coverage. Employers will also be required to notify each employee at hiring about the existence of the insurance exchange and that the employee might be eligible for a subsidy to purchase a plan through the exchange under certain circumstances.

CLASS ACT

The CLASS Act is a publicly sponsored long-term care plan. Although private long-term care coverage offers many advantages, it can be out of reach for many lower-wage individuals who live paycheck to paycheck. The premiums for CLASS Act coverage have not yet been established, but the law calls for affordable coverage. The CLASS Act also provides a plan without medical underwriting, so no one can be turned away for coverage, provided they meet eligibility requirements set by the Department of Health and Human Services. It's estimated CLASS Act benefits won't be available until 2016, but enrollment for coverage may begin as early as 2011.

PREPARING FOR HEALTH CARE REFORM

Getting ready for the changes health care reform will bring will be difficult, in some ways. The implementation of these market reforms will take several years, and a number of factors still need to be determined by several federal government agencies. For now, employers should evaluate their current benefit plan designs with the requirements outlined in this timeline, stay tuned to the implementation of these new market reforms as they take place and remember:

- Voluntary benefits help your employees strengthen their financial safety nets as more risks and costs associated with health care become their responsibility. Additional coverage helps them pay out-of-pocket expenses not covered by major medical insurance or nonmedical expenses, such as the mortgage, electric bills, groceries and child care.
- Ovation Health & Life Services can continue to help your employees understand their benefits so they value the options you provide and choose the best coverage for their unique situations. Our benefits counselors are trained to help employees better understand the benefits they already have, along with any gaps that may exist.

ABOUT OVATION

Ovation Health & Life Services is dedicated to reducing the costs—both direct and indirect—associated with your employee benefits. Ovation saves you the time that's typically required to manage a benefits program, helps you discover better products, and often decreases your benefit expenses—all at no cost to you.

For questions regarding Ovation Health & Life Services, please call Daniel LaBroad at 972.407.9959 or visit www.ovationlife.com.



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