



For Your Benefit.

Health Care Reform Signed Into Law – Part I (2010 Changes)

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After almost 100 years of proposals to provide full or near-universal health care coverage in the US, starting with Teddy Roosevelt, on March 23, 2010 President Obama signed the [Patient Protection and Affordable Care Act \(PPACA\)](#) into law. A second “reconciliation” bill to immediately amend the PPACA with a number of fixes ([HR 4872](#)) will most likely pass and also be signed into law shortly.

There are a large number of significant changes that will be implemented as early as six months after enactment (thus, in September 2010) as well as others that will phase in over the next eight years. In this For Your Benefit issue, we will begin to identify some of those new provisions as they will impact employers and their employees. After the likely passage of the reconciliation bill, we will incorporate those changes in a future For Your Benefits.

Changes in 2010

For plan years beginning on or after September 23, 2010, all health plans will be required to allow adult dependent (but not necessarily tax dependent) children to remain on Mom’s or Dad’s health plan until their 26th birthday if the child does not have coverage available (whether enrolled or not) through a job. The previous state-by-state patchwork quilt of the end of dependent eligibility—19th birthday, or 23rd or 25th birthday if a full-time college student—will disappear. In 2014, the exception for coverage availability from a dependent’s job will also disappear.

For those employers and employees having a supplement to Medicare Part D prescription drug coverage, there will be a \$250 federal rebate for those individuals who find themselves in the infamous “doughnut hole.”

While on the subject of Medicare Part D, those employers who are currently utilizing the 28 percent federal subsidy to offset the cost of a retiree prescription drug plan will find they will no longer have a income tax exclusion for those payments starting in 2013. However, in 2010, for accounting purposes they will have to begin to recognize that change of tax status on their books.

Health plans and insurers will no longer be able to exclude pre-existing medical conditions from coverage for children under the age of 19.

Employers with 10 or fewer employees with an average annual wage of \$25,000 or less will be eligible for a tax credit of 35 percent of health insurance costs. Employers with between 11 and 25 employees who have an average annual

wage of up to \$50,000 are eligible for partial tax credits on a sliding scale. This tax credit will remain in place, increasing to 50 percent of costs, for the first two years that an employer buys health coverage through a state Exchange starting in 2014.

All health plans, fully insured and self-funded, will be barred from imposing annual or lifetime caps on coverages. Further, insurers or stop-loss providers will be unable to retroactively rescind coverage for any reason other than outright fraud.

Insurers (in the case of fully insured plans) or plan sponsors of self-funded plans will be required to annually report to the federal government how much of a plan's overall costs were spent on claims and how much was spent on nonclaims administrative items. This data will be aggregated and then used by the federal government to review premium increases.

By no later than September 23, 2010, all health plans will be required to offer certain preventive care benefits with no employee cost sharing. These include certain evidence-based items contained in the recommendations from the US Preventive Services Task Force, such as:

- Screening adults for depression
- Intensive behavioral dietary counseling for adult patients with known risk factors for cardiovascular and diet-related chronic diseases
- Oral fluoride supplementation to preschool children older than six months
- Screening for high blood pressure in adults aged 18 or older
- Screening and behavioral counseling interventions to reduce alcohol misuse by adults, including pregnant women, in primary care settings

Other preventive care items that must be included in plans at no cost sharing include:

- Immunizations recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention
- Evidence-based preventive care and screenings for infants, children, and adolescents provided for in the comprehensive guidelines supported by the Health Resources and Services Administration
- Additional women's preventive care and screenings in comprehensive guidelines supported by the Health Resources and Services Administration. Interestingly, the controversial November 2009 recommendations from the Preventive Services Task Force regarding breast cancer screenings, mammography, and prevention are specifically excluded from these requirements. Presumably, the old recommendations will be the ones included in preventive care.

Until the state Exchanges take effect in 2014, or until the allocated \$5 billion runs out, the federal government will temporarily reinsure 80 percent of the cost of an early retiree's medical claims that exceed \$15,000 but do not exceed \$90,000. An early retiree is defined as one between the ages of 55 and 64. The subsidy will be paid to the employer (in the case of a self-funded plan) or the insurer and should reduce the cost of retiree medical coverage for both employers and employees.

And that's just for 2010. In Part II of the series, we'll explore changes coming in 2011 through 2013. Part III of the series will focus on changes starting in 2014 and beyond. In all, Kushner & Company is here to help you navigate the new health care frontier by developing individual organizational strategies and implementation plans.

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