

The \$938 billion Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act:

## What is included in this landmark health care legislation? How will it impact you and your business?

### Benefits/Tax

#### 2010

##### Small business tax credit

Initiates the first phase of the small business tax credit for qualified small employers for contributions to purchase health insurance for employees. The credit is up to 35 percent of the employer's contribution to provide health insurance for employees. There is also up to a 25 percent credit for small nonprofit organizations. *When Exchanges are operational, tax credits will be up to 50 percent of premiums.*

##### Preventive health services coverage

All new group health plans and plans in the individual market must provide first dollar coverage for preventive services. *Effective for plan years beginning after September 22, 2010 (6 months after enactment).*

##### Coverage for young adults

Requires any group health plan or plan in the individual market that provides dependent coverage for children to continue to make that coverage available until the child turns 26 years of age. *Effective for plan years beginning after September 22, 2010; grandfathered group health plans only required to offer coverage through December 31, 2013 if young adult is not eligible for other employer-sponsored coverage.*

##### Early retirees

Creates a new temporary reinsurance program to help companies that provide early retiree health benefits for those ages 55-64 offset the cost of that coverage. *Effective 90 days after enactment through December 31, 2013.*

##### Consumer assistance

Requires that any new group health plan or new plan in the individual market implement an effective appeals process for coverage determinations and claims. *Effective for plan years beginning after September 22, 2010.*

##### Reasonable break time for nursing mothers

Employers with more than 50 employees must provide break time and a place for breastfeeding mothers to express milk.

#### 2011

##### Cost of health care coverage

Health insurance issuers must annually report on the share of premium dollars spent on medical care and provide consumer rebates for excessive medical loss ratios (Note: This provision does not apply to employer-sponsored health plans, but just to the insurers).

##### New, voluntary options for long-term care insurance

Creates a long-term care insurance program to be financed by voluntary payroll deductions to provide benefits to adults who become disabled.

##### Reporting health coverage costs on Form W-2

Requires employers to disclose the value of the benefit provided by the employer for each employee's health insurance coverage on the employee's annual Form W-2.

##### Standardizing the definition of qualified medical expenses

Conforms the definition of qualified medical expenses for HSAs, FSAs, and HRAs to the definition used for the itemized deduction. An exception to this rule is included so that amounts paid for over-the-counter medicine with a prescription or for insulin still qualify as medical expenses.

##### Increased tax on withdrawals for non-qualified medical expenses

Increases the additional tax for HSA withdrawals prior to age 65 that are not used for qualified medical expenses from 10 to 20 percent. The additional tax for Archer MSA withdrawals, not used for qualified medical expenses, would increase from 15 to 20 percent.

##### Cafeteria plan changes

Creates a Simple Cafeteria Plan to provide a vehicle through which small businesses can provide tax free benefits to their employees. This would ease the small employer's administrative burden of sponsoring a cafeteria plan. The provision also provides that employers who make specified contributions to employees who are not highly compensated employees or key employees are treated as satisfying the nondiscrimination requirements applicable to cafeteria plans for that plan year.

#### 2013

##### Standard business rules for health plans

Health plans must adopt and implement uniform standards and business rules for the electronic exchange of health information to reduce paperwork and administrative burdens and costs.

##### Health Flexible Savings Account contributions

Limits the amount of contributions to health FSAs to \$2,500 per year, indexed by CPI for subsequent years.

##### Deduction for Employer Part D subsidy eliminated

Eliminates the deduction for retiree prescription drug expenses incurred by an employer's retiree health plan for which the employer receives a Medicare Part D subsidy.

##### Increase to Medical Part A insurance tax for high wage workers

Increases the hospital insurance tax rate by 0.9 percentage points on wages over \$200,000 for an individual (\$250,000 for married couples filing jointly).

#### 2014

##### Health Insurance Exchanges

Opens health insurance Exchanges in each State to the individual and small group markets. This new venue will enable people to comparison shop for standardized health packages. It facilitates enrollment and administers tax credits so that people of all incomes can obtain affordable coverage.

**Health care tax credits**

Makes premium tax credits available through the Exchange to ensure people can obtain affordable coverage. Credits are available for people with incomes above Medicaid eligibility and below 400 percent of poverty who are not eligible for or offered other acceptable coverage.

**Free Choice vouchers**

Workers who qualify for an affordability exemption to the individual responsibility policy but do not qualify for tax credits can take their employer contribution and join an Exchange plan.

**Employer responsibility**

Requires employers with 50 or more employees who do not offer coverage to their employees to pay \$2,000 annually for each full-time employee over the first 30 as long as one of their employees receives a tax credit. Precludes waiting periods over 90 days. Requires employers who offer coverage but whose employees receive tax credits to pay \$3,000 for each worker receiving a tax credit up to an aggregate cap of \$2,000 per full-time employee.

**Small business tax credit**

Implements the second phase of the small business tax credit for qualified small employers.

**2018**

**“Cadillac” plan excise tax**

Imposes an excise tax of 40 percent on insurance companies and plan administrators for any health insurance plan that is above the threshold of \$10,200 for self-only coverage and \$27,500 for family plans. The tax would apply to the amount of the premium in excess of the threshold. An additional threshold amount of \$1,650 for singles and \$3,450 for families is available for retired individuals over the age of 55 and for plans that cover employees engaged in high risk professions. Employers with higher costs on account of the age or gender demographics of their employees, when compared to the age and gender demographics nationally, may adjust their thresholds even higher.

**Individuals**

**2010**

**Insurance for uninsured individuals with a pre-existing condition**

Provides eligible individuals access to coverage that does not impose any coverage exclusions for pre-existing health conditions. This provision ends when Exchanges are operational. *Effective 90 days after enactment.*

**Pre-existing condition exclusions for children eliminated**

Bars health insurance companies from imposing pre-existing condition exclusions on children’s coverage for children under the age of 19. *This provision applies to employer group health plans (both insured and self-funded) as well as to health insurance companies. Early application applies only to children under age 19 (not adult children up to 26). Effective for plan years beginning after September 22, 2010.*

**Medicare Part D “Donut Hole”**

Provides a \$250 rebate check for all Part D enrollees who enter the “donut hole.” Currently, the coverage gap falls between \$2,830 and \$6,440 in total drug spending.

**Prohibiting rescissions**

Prohibits health insurance companies from rescinding existing health insurance policies when a person gets sick. Also applies to employer group health plans (both insured and self-funded). *Effective for plan years beginning after September 22, 2010.*

**Lifetime limits eliminated**

Prohibits insurers from imposing lifetime limits on benefits. Also applies to employer group health plans (both insured and self-funded). *Effective for plan years beginning after September 22, 2010.*

**Consumer access to health insurance information**

Requires the Secretary of HHS to establish an Internet website through which residents of any State may identify affordable health insurance coverage options in that State. The website will also include information for small businesses about available coverage options, reinsurance for early retirees, small business tax credits, and other information of interest to small businesses. *Effective not later than July 1, 2010.*

**Adoption credit and adoption assistance program**

Increases the adoption tax credit and adoption assistance exclusion by \$1,000, makes the credit refundable, and extends the credit through 2011. *Effective for tax years beginning after December 31, 2009.*

**Health care workforce programs**

Expands low-interest student loan programs, scholarships, and loan repayments for health students and professionals.

**Tax on indoor tanning services**

Imposes a 10 percent tax on amounts paid for indoor tanning services. Indoor tanning services are services that use an electronic product with one or more ultraviolet lamps to induce skin tanning. *Effective for services on or after July 1, 2010.*

**2011**

**Part D “Donut Hole” Discounts**

Provides a 50 percent discount on all brand-name drugs and biologics in the donut hole and begins phasing in additional discounts on brand-name and generic drugs to completely fill the donut hole by 2020 for all Part D enrollees.

**Preventive health coverage under Medicare**

Provides a free, annual wellness visit and personalized prevention plan services for Medicare beneficiaries and eliminates cost-sharing for preventive services.

**2013**

**Increased threshold for individuals claiming deduction for medical expenses**

Increases the income threshold for claiming the itemized deduction for medical expenses from 7.5 to 10 percent. Individuals over 65 would be able to claim the itemized deduction for medical expenses at 7.5 percent of adjusted gross income through 2016.

**Tax on net investment income and modified AGI**

Imposes a 3.8 percent tax on net investment income in the case of taxpayers with modified adjusted gross income over \$200,000 (\$250,000 for joint returns).

**2014**

**Health insurance mandates**

Implements health insurance regulations that prohibit insurance companies from engaging in practices that enable them to refuse to sell or renew policies due to an individual’s health status. Insurers can not exclude coverage based on pre-existing health conditions. It also limits the ability of insurance companies to charge higher rates due to health status, gender, or other factors. Premiums can vary only on age (no more than 3:1), geography, family size, and tobacco use. All of these mandates also apply to employer group health plans (both insured and self-funded), but do not apply to any grandfathered plans.

**Elimination of annual limits**

Prohibits insurers from imposing annual limits on the amount of coverage an individual may receive. Also applies to employer group health plans. *Annual limits on "essential health benefits" (as identified by HHS) permitted for plan years beginning after September 22, 2010 and before January 1, 2014. No annual limits on any benefits permitted for plan years beginning after December 31, 2013.*

**Individual health coverage mandate**

Requires most individuals to obtain acceptable health insurance coverage or pay a penalty of \$95 for 2014, \$325 for 2015, \$695 for 2016 (or up to 2.5 percent of income in 2016), up to a cap of the national average bronze plan premium. Families will pay half the amount for children, up to a cap of \$2,250 per family. After 2016, dollar amounts are indexed. An individual will not be penalized if affordable coverage is not available.

**Government Programs**

**2010**

**Funding community health centers**

Provides funds to build new and expand existing community health centers. *Effective Fiscal Year 2011.*

**National health service corps**

Expands funding for scholarships and loan repayments for primary care practitioners working in underserved areas participating in the National Health Service Corps. *Effective Fiscal Year 2011.*

**Grants to states for consumer assistance**

Requires the Secretary of Health and Human Services (HHS) to award grants to States to establish health insurance consumer assistance or ombudsman programs to receive and respond to inquiries and complaints concerning health insurance coverage.

**Public health prevention programs**

Creates an interagency council to promote healthy policies at the federal level and establishes a prevention and public health investment fund to provide an expanded and sustained national investment in prevention and public health programs. *Effective not later than July 1, 2010.*

**Development of quality strategy**

Additional resources provided to HHS to develop a national quality strategy and support quality measure development and endorsement for the Medicare, Medicaid and CHIP quality improvement programs. *Strategy submitted not later than January 1, 2011.*

**Patient-Centered Outcomes Research Institute**

Establish a private, non-profit institute to identify national priorities and provide for research to compare the effectiveness of health treatments and strategies.

**National Health Care Workforce Commission**

Establishes an independent National Commission to provide information and recommendations to Congress and the Administration for aligning federal health care workforce resources with national needs.

**2011**

**Establishes a new Center for Medicare & Medicaid Innovation**

To test innovative payment and service delivery models to reduce health care costs and enhance the quality of care provided to individuals.

**Primary care, nursing, and public health workforce program**

Increases access to primary care by adjusting the Medicare Graduate Medical Education program. Primary care and nurse training programs are also expanded to increase the size of the primary care and nursing workforce.

**2013**

**Preventive health coverage under Medicaid**

Creates incentives for State Medicaid programs to cover evidence-based preventive services with no cost-sharing.

**2014**

**Multi-State option**

Provides a choice of coverage through a multi-State plan, available nationwide, and offered by private insurance carriers under the supervision of the Office of Personnel Management.

**Access to Medicaid**

Medicaid eligibility will increase to 133 percent of poverty for all non-elderly individuals. States will receive 100 percent federal funding for the first three years of this coverage expansion.

**2015**

**Independent Payment Advisory Board**

To develop and submit proposals to Congress and the private sector aimed at extending the solvency of Medicare, lowering health care costs, improving health outcomes for patients, promoting quality and efficiency, and expanding access to evidence-based care.

**Health Care Providers/ Health Care Suppliers**

**2010**

**Measures to prevent health care fraud**

Requires additional screening procedures for health care providers. *Many provisions are effective on the date of enactment.*

**Extending payment for rural providers**

Extends Medicare payment protections for small rural hospitals, including hospital outpatient services, lab services, and facilities that have a low-volume of Medicare patients.

**Non-profit hospitals**

Establishes new requirements applicable to non-profit hospitals, including periodic community needs assessments.

**Investment in new therapies**

A two year temporary credit, subject to an overall cap of \$1 billion, to encourage investments in new therapies to prevent, diagnose, and treat acute and chronic diseases. *Available for qualifying investments made in 2009 and 2010.*

**Tax relief for health professionals with state loan repayment**

Excludes from gross income payments made under any State loan repayment or loan forgiveness program that is intended to provide for the increased availability of health care services in underserved or health professional shortage areas. *Effective for amounts received by an individual in taxable years beginning after December 31, 2008.*

**2011**

**Increasing reimbursement for primary care**

Provides a 10 percent Medicare bonus payment for primary care physicians and general surgeons. *Effective January 1, 2011.*

**Reformed payments in Medicare Advantage**

Freezes 2011 Medicare Advantage payments benchmarks at 2010 levels and reduces Medicare Advantage benchmarks in subsequent years relative to current levels. Benchmarks will vary from 95 percent of Medicare spending in high-cost areas to 115 percent of Medicare spending in low-cost areas with higher benchmarks for high-quality plans. *Changes are phased-in over three, five or seven years, depending on the level of payment reductions.*

**Community First Choice option**

Allows States to offer home and community based services to disabled individuals through Medicaid as an alternative to institutional care.

**Pharmaceutical manufacturers fee**

Imposes an annual, non-deductible fee on the pharmaceutical manufacturing industry allocated according to market share and not applying to companies with sales of branded pharmaceuticals of \$5 million or less.

**2012**

**Encouraging integrated health systems**

Changes physician payments to increase payment for primary care services and encourage physicians to join together to form "accountable care organizations".

**Value-based purchasing programs**

Establishes a hospital value-based purchasing program in an effort to focus on quality for acute care hospitals. Also requires a plan to move home health and nursing home providers into a value-based purchasing payment system.

**Avoidable hospital readmissions**

Directs CMS to track hospital readmission rates for certain high-cost conditions and implements a payment penalty for hospitals with the highest readmission rates.

**2013**

**Pilot program on payment bundling**

Establishes a national pilot program on payment bundling to encourage hospitals, doctors, and post-acute care providers to work together to achieve savings for Medicare through increased collaboration and improved coordination of patient care.

**Increasing Medicaid payment for primary care**

Requires states to pay primary care physicians the same rate Medicare pays, and fully federally funds any additional state costs.

**Medical device excise tax**

Establishes a 2.3 percent excise tax on the first sale for use of a medical device. Excepted from the tax are eyeglasses, contact lenses, hearing aids, and any device of a type that is generally purchased by the public at retail for individual use.

**2014**

**Establishing value-based purchasing for certain providers**

Places certain providers - including ambulatory surgical centers, long-term care hospitals, inpatient rehabilitation facilities, inpatient psychiatric facilities, PPS-exempt cancer hospitals and hospice providers - on a path toward value-based purchasing by requiring the Secretary to implement quality measure reporting programs in these areas and also pilot test value-based purchasing for each of these providers in subsequent years.

**2015**

**Creates a physician value-based payment program**

To promote increased quality of care for Medicare beneficiaries.



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