

2010 Health Care Reform - Provisions Impacting Employers (by Effective Date)

March 24, 2010

Effective Date	Provision	Patient Protection and Affordable Care Act (H.R. 3590)	Reconciliation: Health Care and Education Affordability Act of 2010 (H.R. 4872)
		Signed into law by President Obama March 23, 2010.	Pending approval in the Senate. Passed by the House March 21, 2010.
<p>President Obama signed the Patient Protection and Affordable Care Act (PPACA) on March 23, 2010. The House of Representatives passed "fixes" to the PPACA known as the Health Care and Education Affordability Act of 2010. The "fixes" bill has been sent to the Senate for consideration. If the Senate passes the "fixes" exactly as the House has already approved, the bill would be sent to President Obama for his signature in order to enact the law. If the Senate makes any changes to the Reconciliation Bill, the House will need to approve the changes before they will be enacted.</p>			
2010	Immediate Impact to Existing Group Health Plans	Effective plan years beginning six months after enactment (September 23, 2010), all plans must remove annual or lifetime dollar limits, provide coverage for dependents up to age 26 (only if dependent has no access to other employer-sponsored health coverage), and eliminate the pre-existing condition limitation on children under age 19.	Limits waiting periods to 90 days. Clarifies that group health income tax exclusion includes coverage of dependent children to age 26.
2010	Small Business Tax Credit (< 25 employees)	Employers with less than 25 employees with annual average wages of \$40,000 (indexed starting 2014) who contribute more than 50% towards the cost of coverage may be eligible for a small business tax credit (2010-2013). Effective 2014, the small business tax credit will only be available if coverage purchased through an exchange.	
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 taxes effective January 1, 2011. Long-term care program includes 5 year vesting period and \$50 per day benefit.	
2011	Employer Reporting Requirements	Must report cost of employer-provided health coverage on the employee's W-2.	
2011	Over-the-Counter Drugs	Over-the-counter drugs are excluded from reimbursement through a health FSA, HRA, or HSAs. May be available for reimbursement if prescribed by physician.	
2011	HSA Non-Qualified Distributions	Increases the penalty tax on non-qualified HSA distributions from 10% to 20%.	
2011	Grants to Establish Wellness Plans (<100 employees)	Grants available for small employers with 100 or fewer employees to establish a wellness program. Available for 5 years beginning fiscal year 2011.	

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2011 (2013)*	Health FSA Annual Limit	Limits the annual contributions to a health flexible spending account (FSA) to \$2,500.	*Delays effective date to 2013.
2011 (2013)*	Medicare Part D Retiree Drug Subsidy	Eliminates the tax deduction for employers who receive Medicare Part D retiree drug subsidy.	*Delays effective date to 2013.
2013 (2018)*	High Cost "Cadillac" Plan Excise Tax	Imposes 40% excise tax on providers of health plans costing more than \$8,500 for individual coverage and \$23,000 for family coverage. Threshold is phased in for 17 highest cost states (2013-2015).	*Delays effective date to 2018. Increases threshold limits to \$10,200 individual, \$27,500 family. Removes higher thresholds for high cost states.
		Plan cost includes total medical premium, health FSA reimbursements, health reimbursement arrangements (HRAs), employer contributions to HSAs, and coverage for dental, vision, and other supplementary health insurance.	Plan cost excludes dental and vision coverage.
		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.	
2013	Medicare Part A Payroll 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). No increase to employer-portion of Medicare payroll tax.	Adds a new 3.8% Medicare tax (non-payroll) to an individual's unearned income.
2014	Individual Mandate	Imposes penalty tax on individuals who do not have qualifying coverage. Penalty tax equal to the greater of \$750 per year (up to a maximum of 3x for family) or 2% of household income.	Changes penalty to greater of \$695 per year (up to a maximum of 3x for family) or 2.5% of household income.

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2014	Employer Mandate (50+ employees)	Employers with 50+ employees who do not offer affordable minimum bronze level coverage may pay a penalty tax based upon the number of full-time employees.	
		Bronze level coverage must pay at least 60% of benefit costs with a maximum out-of-pocket limit equal to the annual HSA limits (2010: \$5,950 individual, \$11,900 family). Higher levels of coverage are available (Silver, Gold, & Platinum) which provide 70%, 80% or 90% of coverage respectively.	
		Affordable coverage means that the employee cost is less than 9.8% of household income. If employee cost of coverage is between 8-9.8% of household income, employer must provide a Free Choice Voucher equal to the employer cost of coverage. Employee can use voucher to purchase coverage in an Exchange.	Changes "9.8%" to 9.5% of employee's household income.
	Employer Mandate Penalty Tax	If not offering minimum bronze level coverage and have at least 1 full-time employee receiving federal premium credits, penalty \$750 per full-time employee.	Changes penalty to \$2,000 per full-time employee, excluding first 30 employees.
		If offering coverage that is not affordable and have at least 1 full-time employee receiving federal premium credits, penalty is the lesser of \$3,000 per premium credit recipient or \$750 per full-time employee.	
2014	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, laboratory services, wellness and preventive services (no-cost sharing on preventive), chronic disease management, pediatric services (including oral and vision care). Referrals to OB/GYN cannot be required.	Grandfathered plans, in existence prior to January 1, 2014, do not need to meet the Essential Benefits requirements but must cover dependents to age 26, limit waiting periods to 90 days, remove annual or lifetime limits, and eliminate pre-existing condition
		Maximum out-of-pocket limit equal to the annual HSA limits (2010: \$5,950 individual, \$11,900 family). No annual or lifetime dollar limits.	
		Eliminates pre-existing condition limitations. Cover dependent children up to age 26.	
		Maximum deductible for 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.	
		Employers that offer waiting periods longer than 60 days must pay a penalty of \$600 for each full-time employee subject to the waiting period.	Eliminates the penalty and limits all waiting periods to 90 days.

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2014	Automatic Enrollment for Large Employer Groups	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.	
2014	Employer Reporting Requirements	Large employers (100 or more employees) or insurers/carriers must report plan participation and employer contribution data to IRS annually.	
2014	Incentives for Participation in Wellness Programs	Allows rewards for participation in wellness programs with health-related standards of up to 30% of the cost of coverage in the form of premium discounts, cost-sharing waivers, or benefits that would not otherwise have been provided. Plans still required to follow HIPAA wellness rules.	
2014	Health Insurance Exchange - Small Employers	Small employers (less than 100 employees) and individuals will be able to purchase coverage from a state-based Health Insurance Exchange.	
2017	Health Insurance Exchange - Large Employers	States may permit large employers (100 or more employees) to purchase coverage from an Exchange.	