

Health Care Legislation

SMC Business Councils
April 8 and 9, 2010



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Health Care Legislation

Presented by:

Tom Henschke, Acting President - SMC

Dan Jones, Director Gov't Affairs - NSBA

Health Care Legislation

- HealthCareQuestions@smc.org
- May 3, 2010 - Grassroots Lobbying Trip to State Capitol - Harrisburg, PA
- May 26 & 27 - Washington Presentation to Congress – Washington, DC

Health Care Legislation

- On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act (PPACA) into law
- On March 30, 2010, President Obama signed into law the Health Care and Education Reconciliation Act (HCERA).
- HCERA modifies certain elements of PPACA.
- Together they constitute the new 2,700+ page Health Care Legislation law.

Executive Summary

- Legislation does not address cost of medical care
- Deficit reductions are unrealistic
- Federally mandated coverages will increase premiums
- New taxes will be passed onto consumers
- More federal oversight and increased access to private health information
- Increased burden on employers
- Confusing... no kidding...

Health Care Legislation

2010 Provisions		
Effective Date	Provision	Explanation
Immediate	Grandfathered Health Plans	<p>Allows individuals and groups to keep their policy with a grandfathered status when you only add or delete new employees and new dependents. All other changes will cause you to lose grandfathered status. There is an exception for employers that have upcoming plan changes under collective bargaining agreement.</p> <p>The reconciliation bill eliminated many of the grandfathered provisions related to the insurance market reforms to follow. Most of us will not have a grandfathered plan.</p>
	Small Employer Tax Credits	<p>Retroactive to beginning of 2010</p> <p>The new law creates a 35 percent tax credit for 2010-2013 on the amount of contributions the employer made on behalf of the employees during the taxable year for the qualifying health coverage subject to federal small business benchmark premiums.</p> <p>There is a similar 50 percent credit beginning in 2014 for no more than two consecutive taxable years but the insurance must be obtained through an Exchange.</p>

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2010 Provisions		
Effective Date	Provision	Explanation
Immediate	Small Employer Tax Credits (continued)	<p>To be eligible for the credits, small employers will have to contribute at least 50 percent of the cost of premiums towards a qualified health plan. Small businesses with 10 or fewer full-time employees and with average taxable wages of \$25,000 or less could claim the full credit. It is phased out as average employee compensation increases from \$25,000 to \$50,000 and as the number of full-time employees increases from 10 to 25.</p> <p>Self-employed individuals, including partners and sole proprietors, two percent shareholders of an S Corporation, and five percent owners of the employer are not treated as employees for purposes of this credit. There is also a special rule to prevent sole proprietorships from receiving the credit for the owner and their family members.</p> <p>The credit is only available to offset actual tax liability and is claimed on the employer's tax return. The credit is not payable in advance to the taxpayer or refundable. Thus, the employer must pay the employees' premiums during the year and claim the credit at the end of the year on its income tax return. Cannot be used to offset payroll tax.</p>
	HHS Federal Rate Review of Health Insurance Premium Rates	<p>Previous rate review fell under jurisdiction of state insurance departments. Now involves HHS. Can lead to insurers being excluded from participation in state exchanges.</p>

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90 Days after Enactment	Temporary High Risk Pool	Establishes high risk pool coverage for individuals with pre-existing conditions and without coverage for six months. Expires in 2014 when state exchanges are set up. Employers cannot send individuals to pool – associated fines. States must set up high risk pool or the Feds will set it up for them.
For Plan Years Beginning After 9/23/2010	Coverage For Adult Children	Increases coverage for dependents to age 26 for both individual and group policies assuming child is not eligible for coverage under another employer's plan. No post secondary education requirement or tax dependent status requirement. Dependent could be married as well.
	Preexisting Conditions	Plans may not exclude children under 19 for pre-existing conditions. In 2014 no one can be excluded for pre-existing conditions.
	Expanded Nondiscrimination Rules	Plans can no longer discriminate in favor of highly compensated individuals. Subject to IRC Section 105(h).
	Lifetime and Annual Benefit Limits	Lifetime maximums are no longer allowed and annual maximums are restricted. Annual maximums on benefits will no longer be permitted in 2014.

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2010 Provision		
Effective Date	Provision	Explanation
For Plan Years Beginning After 9/23/2010	Preventive Care	Group and individual plans can no longer have any cost share, copays, deductible, coinsurance, etc for preventive services. HSA plans are included under this provision. A bit confusing as different federal agencies will define preventive care categories for women, children, etc.
	Insurance Policy Rescissions	Prohibits rescissions individual or group coverage except for cases of fraud or misrepresentation.
	Emergency Services	Mandates emergency coverage at in-network level regardless of provider. Applies to individual and group coverage.
	Primary Care Physician Designation	Allows health plan enrollees to chose any network doctor as their PCP if insurance plan requires PCP.
10/1/2010	Wellness Grants	Federal program to fund wellness grants for small business. No details, yet.

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Effective Date	Provision	Explanation
2011	W-2 Reporting	Employers are required to disclose the aggregate value of each employee's health coverage on their annual W-2 for tax years beginning after 12/31/10.
	Tax on Pharmaceutical Manufacturers	Payments to the federal government of \$2.5 to \$4.0 billion annually. These new taxes are expected to be passed on to consumers.
	FSA/HSA/HRA Changes	Over the counter medications will no longer be eligible for reimbursement. Distributions taken from HSAs and not used for qualified medical expenses will be taxed at 20% (previously 10%).
	CLASS Act	Every employer is required to auto enroll all employees in a voluntary federal long-term care program at a premium of \$65 per month with a 5-year waiting period. Employees can purchase via payroll deductions or opt-out. This is expected to raise \$71 billion in revenue.

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Effective Date	Provision	Explanation
2012	Form 1099 Expansion	<p>This has absolutely nothing to do with Health Care Legislation. It was inserted solely to raise revenue.</p> <p>Under current tax law, a business taxpayer making payments to a service provider (the “payee” in IRS language) aggregating \$600 or more for services in the course of a trade or business in a year is required to send an information return to the IRS (and to the service provider-payee) setting forth the amount, as well as name and address of the recipient of the payment (generally on Form 1099). Under current law, the business taxpayer is not required to issue a Form 1099 to a corporation that provides services to it.</p> <p>The new law makes two changes. The first is to require businesses to issue the Forms 1099 to corporations as well as all persons in a trade or business. The second is to expand significantly the scope by requiring the issuance for payments made to “property” providers as well as service providers. The new requirements apply to payments made after December 31, 2011.</p> <p>Payments defined as, ”rent, salaries, wages, amounts in consideration for property, premiums, annuities, compensations, remunerations, emoluments, gross receipts or other fixed or determinable gains, profit or income.</p> <p>The business taxpayer that issues the 1099 must obtain the TIN of the payee. If payee does not provide TIN to the business taxpayer, the business taxpayer must withhold 28 percent from the payment.</p> <p>Penalties for failing to file information return (1099) - \$15, \$30, and \$50 depending on late filing date. Service vendors would also include airlines, rental car companies, restaurants, hotels, etc.</p>

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Effective Date	Provision	Explanation
2013	FSA Cap	Pre-tax contributions will be capped at \$2,500 per year, indexed annually.
	Unreimbursed Medical Expenses: Higher Threshold	The threshold for itemizing unreimbursed medical expenses will increase from 7.5% of adjusted gross income to 10% of adjusted gross income.
	Tax on Medical Device Manufacturers	2.9% sales tax on medical devices. Represents added tax of \$2+ billion per year to eyeglasses, contact lenses, hearing aids, etc. Will be passed on to consumers.
	Medicare Payroll Tax Increase	<p>Additional tax on self-employed and employees earning \$200,000+ for individual files and \$250,000+ for joint filers. Income levels are not indexed for inflation.</p> <p>Medicare Hospital Insurance tax increased by .9% (from 1.45% to 2.35%) on wages above threshold amount. There is no limit on the amount of wages or self-employment income subject to the tax (unlike the social security portion of the FICA tax). This is an increase in the employee's share only. The employer will continue to pay to its 1.45 percent rate share on the employee's wages. In the case of the self-employed, they will pay "only" the additional 0.9 percent. Self-employed not permitted to deduct any portion of this tax.</p> <p>For the first time - Unearned Income Medicare Contribution (UIMC) tax on investment (passive) income of 3.8% on individuals with adjusted gross incomes over \$200,000 (\$250,000 for joint filers). This is calculated separately from the HI tax and would apply to "net investment income" which is interest, dividends, royalties, rents, gross income from a trade or business involving passive activities, and net gain from disposition of property (other than property held in a trade or business). Also applies to estates and trusts.</p>
	Employer Notices	All employers must provide notice to employees of existence of state based exchanges.

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Effective Date	Provision	Explanation
2014	Numerous Provisions	<p>Individual mandate to purchase insurance – phased in excise tax for non-compliance.</p> <p>Federal subsidies to purchase insurance provided to individuals falling between 100% to 400% of the federal poverty level.</p> <p>Medicaid expansion for low income individuals.</p> <p>States are required to establish American Health Benefit Exchanges by 2014. Individuals may obtain their coverage through these Exchanges. These Exchanges will include Small Health Option Programs (SHOPs) through which small businesses may obtain coverage.</p> <p>No employer mandate to offer coverage, but businesses with 50+ full-time employees will be fined (\$2,000 to \$3,000 per employee) if just one employee receives a tax credit through an exchange.</p> <p>New employee waiting period cannot exceed 90 days.</p> <p>All health plans must be issued on a guaranteed-issue basis, cover pre-existing conditions, and be priced using strict modified community rating. Prohibits premium variations based on health status and limits premium variations to tobacco use, age (3:1) band, geography, and family composition.</p> <p>Premium tax on private health insurers – \$60 billion from 2014 to 2020. This cost will be passed on to consumers.</p>

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Effective Date	Provision	Explanation
2018	Cadillac Tax	Nondeductible excise tax of 40 percent on health insurers and health plan administrators for coverage that exceeds certain thresholds (\$10,200 single coverage and \$27,500 for family coverage. Includes FSA/HSA/HRA contributions in the calculation. Dental and vision premiums not included. This cost will be passed onto consumers.
	Other Changes	<p>New law allows the IRS to disclose to HHS taxpayer return information to substantiate credits or premium reductions</p> <p>New law requires insurers to report health insurance coverage information to the IRS – included TIN for subscriber and dependents, dates, how coverage was purchased, amounts of credits, or any other info deemed necessary by Treasury Secretary.</p>

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- Contact us:

- www.SMC.org
- HealthCareQuestions@smc.org

- Connect with us:



- 412.242.7840
Pittsburgh Region

717.761.1660
Harrisburg Region

