



Special Edition: March 25, 2010

Health Care Reform Legislation: What It Means To You



On March 21, 2010, the House of Representatives passed, 219-212, the Patient Protection & Affordable Care Act, H.R. 3590. With the House approval and Presidential signature, it became law on March 23.

In addition, the House passed the Health Care and Education Affordability Act of 2010 (H.R. 4872), a separate reconciliation bill. This reconciliation bill will be taken up for consideration by the Senate this week and with its passage aspects of 3590 may change. Information that is most likely to change is highlighted in this report in [blue font](#).

An important point to remember is that the details as to how to accomplish much of what is in the piece of legislation have not been written. The regulatory writers will begin the process once final legislation is signed into law. As an example ERISA was signed into law in 1974 but the detailed regulations and interpretations for ERISA are still being issued. While it may not take 36 years to determine the various impact of HR 4872, it will surely take a few weeks to fully understand all of the provisions.

The following information is designed as a simple summary of these bills and the timeline for their provisions.

What Happens in 2010?

- Business tax credits for employers with less than 25 employees and average annual wages of less than \$50,000. The credit is up to 35% of employers contribution toward health coverage if the employer pays at least 50% of the premium
- Create temporary national high risk pool for individuals with pre-existing medical conditions (within 90 days).
- Group health insurance plans and Self funded health plans established prior to enactment are “grandfathered” in under current plan provisions until 2011
 - [Note: reconciliation bill may require no lifetime limits, no rescission, 100% preventive, dependents to 26 etc. for self-funded plans as well.](#)
- Prohibition of lifetime limitations and many annual limitations in health plans
- Prohibits all plans from rescinding coverage except in cases of fraud
- Requires all plans to cover preventative services without cost sharing
- Requires all unmarried dependents to be covered to the age of 26
- Prohibits any plan for imposing pre-existing condition exclusions for children (under age 19). Extended to all ages in 2014.

- Medicare one time rebate of \$250 for anyone caught in “doughnut hole”
- Impose a 10% tanning salon tax
- Authorizes the FDA to approve generic versions of biologic drugs and grant biologic manufacturers 12 years of exclusivity
- Requires health plans (including grandfathered plans) to report on the share of premium dollars spent on medical care in the form of “loss ratios”
- Creates a temporary reinsurance program to help companies that provide early retirees (age 55 thru 64) with health benefits.

What Happens in 2011?

- Federal tax on individuals who spend money from Health Savings Accounts (HSA's) on ineligible medical expenses will double to 20%
- Funding to Community Health centers will increase by \$11 billion to provide care to those who cannot afford it
- Medicare Part D enrollees who face a “gap” in coverage receive a 50% discount on brand name drugs from Pharmaceutical Companies
- Creates a long term care program called CLASS
- Pharmaceutical manufacturers will pay an annual fee of \$2.5 Billion
- Health insurers will be required to provide a “rebate” to enrollees if they spend less than 85% of premium dollars on healthcare as opposed to administrative costs for large groups and less than 80% for small group.
- Excludes costs from over-the-counter drugs from being reimbursed from an HSA, HRA or FSA
- Requirements of plan disclosure
 - Requires plans to issue summary of benefits and explanation of coverage in a uniform format, in easily understood language, including terms and definitions of standard terms, explanations of cost-sharing exceptions, reductions and limitations of coverage with common sense scenarios
- Expanded Beneficiary Appeals Availability
 - Requires plans to implement a process for external appeals of coverage determination and claims
- Automatic Employee Enrollment
 - Requires employers with more than 200 employees to automatically enroll new full time employees
- Simplifies cafeteria plan (pre-tax) rules
- Allows employers to offer wellness premium discounts up to 30% of premium and provides grants for small employers to establish wellness programs

What Happens in 2012?

- Pharmaceutical manufacturers will pay an annual fee of \$3 Billion
- Linking payment to quality outcomes for hospital care.

What Happens in 2013?

- The annual limit on Flexible Savings Accounts contributions would be set at \$2,500
- The threshold for deducting medical expenses will increase from 7.5% to 10% except for those over age 65
- Medicare tax rate will increase from 1.45% to 2.35% on earnings over \$200,000 for individuals and \$250,000 for families
- A 3.8% Medicare tax would be imposed on unearned income
- Creates Consumer Operated and Oriented Plans (CO-OP) to foster the creation of non-profit, member run health insurance companies in all 50 states
- Pharmaceutical manufacturers will pay an annual fee of \$3 Billion
- Eliminates tax deduction for Medicare Part D subsidy
- Impose an excise tax of 2.9% on the sales of medical devices
- Self Funded plans will be required to pay a \$2 per covered employee per month fee

What Happens in 2014?

- Individual mandate will require the purchase of insurance or pay a fine: the greater of \$95 per individual or \$285 per family or 1% of family income
- Employers with more than 50 employees would be required to provide health insurance or pay a fee: \$2,000 per full time employee after the first 30
 - Employers with less than 50 employees are exempt
 - **Note: Reconciliation bill requires employer to pay \$3,000 per employee receiving a subsidy**
- Requirement of employers that offer insurance to employees, to provide a free choice voucher to employees (with income less than 400% of Federal Poverty Level) that is equal to the amount that the employer would have paid if the employee enrolled in their plan. This voucher can be used by the employee to purchase coverage through the exchange
 - **Note: Reconciliation may change the % of FPL eligibility**
- **Employers with a waiting period between 30-60 days pay a fine of \$400 per employee in the waiting period and \$600 for those in a 60-90 day waiting period. Exempts employers with less than 50 employees.**
 - **Note: Reconciliation bill eliminates the penalties but specifies that waiting periods cannot exceed 90 days.**
- Medicaid eligibility will be expanded to 133% of the Federal Poverty Level or \$29,327 for a family of four
- Federal subsidies would be initiated to offset the cost of purchasing insurance.
 - The amounts are based on household income levels
- An annual fee will be imposed on insurance companies of \$8 Billion
- Pharmaceutical manufacturers will pay an annual fee of \$3 Billion
- Create state-based American Health Benefit Exchanges and Small Business Health Options Program (SHOP) for employers with less than 100 employees
- Self Funded plans will be required to pay a per covered employee per month fee based on projected per-capita amount of National Health Expenditures

What Happens in 2015 through 2017?

- Individual mandate will require the purchase of insurance or pay a fine:
 - 2015: the greater of \$325 per individual or \$975 per family or 2% of family income
 - 2016: the greater of \$695 per individual or \$2085 per family or 2.5% of family income
 - 2017: adjusted for inflation
- An annual fee will be imposed on insurance companies of \$11.3 to \$13.9 Billion
- Pharmaceutical manufacturers will pay an annual fee of \$3 to \$3.5 Billion
- Self Funded plans will be required to pay a per covered employee per month fee based on projected per-capita amount of National Health Expenditures
- State may allow employers with >100 employees will be able to purchase insurance through SHOP

What Happens in 2018?

- Individual mandates and fees continue at increasing rates.
- Self Funded plans will continue to pay fees as above
- A 40% excise tax will be placed on health plans that cost more than \$8500 for single coverage and \$23,000 for family plans. The tax is on the excess above the threshold.
 - **Note: The reconciliation bill delays the effective date until 2018 and increases the threshold to \$10,200 per individual or \$27,500 per family**

Once the Senate completes their work on the reconciliation bill, we will provide you with an update.

In the meantime, if you have any questions or would like more detailed information, please contact your Lovitt & Touché representative.