

Health Care Reform: Changes and Challenges



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Health Care Reform

- Coverage Changes
- CLASS Act
- Simple Cafeteria Plans
- Explanations of Coverage
- Wellness Programs
- Play or Pay

Grandfathered Plans

- Some provisions only apply to existing or “grandfathered” plans
 - *Group or individual coverage in effect March 23, 2010 (date of enactment)*
 - May reenroll new employees
 - Add new employees
 - Add dependents
 - Significant coverage changes?

Grandfathered Plans

- Some provisions only apply to new plans
 - *Application of nondiscrimination rules to fully-insured plans*
 - *New claims processing rules*
 - *Preventative care*
 - *Direct access to Ob-Gyn*
 - *Choice of primary care doctor*
 - *Prior authorization of emergency room care*
 - *Guaranteed availability*
 - *Mandated cost-sharing limits*
 - *Quality of care reporting*
 - *HHS reporting*

Coverage Changes

- Federally mandated coverage changes
- Some become effective this year for non-calendar year plans
- Insurance carriers will change group policies
 - *May increase premiums*
- Self-insured plans must be amended and confirm compliance
- Summary Plan Descriptions must be revised

Coverage Changes in 2010/2011

- **Covering Children to Age 26**
 - *Plan years beginning on or after Sept. 23*
 - *Tri-Agency Regulations Issued on May 10*
 - **Eligible Dependents**
 - Children under age 26
 - No residency, student status, or support requirements
 - **Uniform Coverage**
 - No age-based coverage differences for children
 - **Marital Status**
 - Must offer coverage regardless of marital status

Coverage Changes in 2010/2011

- **Covering Children to Age 26**
 - *Tri-Agency Regulations Issued on May 10*
 - **Availability of Other Coverage**
 - Irrelevant, except for “grandfathered plan” until 2014
 - **Special Enrollment Opportunity**
 - Notice
 - 30-day window
 - Plan years beginning on or after September 23, 2010

Coverage Changes in 2010/2011

- **Covering Children to Age 26**
 - ***IRS Notice 2010-30: Tax Implications***
 - **Exclusion**
 - Exclusion applies to age 27
 - **Dependent Status**
 - No residency, support, student status requirement for exclusion
 - **Cafeteria plans**
 - Adult child coverage is qualified benefit
 - Mid-year election change permitted
 - Amend by 12/31/10 for 2010 adult child coverage

Coverage Changes in 2010/2011

- **No Pre-Existing Condition Exclusions for Children Under Age 19**
 - *HIPAA creditable coverage requirement will not apply to children under age 19*
- ***Plan years beginning on or after Sept. 23***

Coverage Changes in 2010/2011

- **Lifetime or Annual Dollar Limits on “Essential Health Benefits” Prohibited**
- “Essential Health Benefits”
 - *Ambulatory patient services*
 - *Emergency services*
 - *Hospitalization*
 - *Maternity and newborn care*
 - *Mental health and substance use disorder*

Coverage Changes in 2010/2011

- “Essential Health Benefits” (*continued*)
 - *Prescription drugs*
 - *Rehabilitative and habilitative services/devices*
 - *Laboratory services*
 - *Preventative and wellness programs*
 - *Chronic disease management*
 - *Pediatric services*
 - Including oral and vision care
- ***Plan years beginning on or after Sept. 23***
 - Possible regulatory phase-in until 2014

Coverage Changes in 2010/2011

- **Rescission Prohibited**
 - *No rescission of coverage is permitted except in cases of:*
 - fraud or
 - intentional misrepresentation
 - *Effective for plan years beginning on or after September 23, 2010*

Coverage Changes in 2010/2011

- **Nondiscrimination for Insured Plans**
 - *Self insured plans remain subject to nondiscrimination requirements*
 - *Insured plans are now subject to nondiscrimination requirements*
 - Salary-based eligibility and benefit discrimination is prohibited
- **Effective Now**
 - *Plan sponsors may not establish discriminatory eligibility rules*
 - *Only applies to new plans*

Coverage Changes in 2010/2011

- **Automatic Health Plan Enrollment**
- Employers with over 200 full-time employees
- Automatically enroll new full-time employees (subject to waiting period)
- Re-enroll existing full-time employees
- Employees must be allowed to opt out
- ***Effective now, but may be delayed to 2013***
 - Expect DOL clarification

Coverage Changes in 2011

- **No FSA, HSA, or HRA Reimbursement of Over-the-Counter Drugs**
- Restriction should be communicated to employees
- Will affect employee open enrollment elections
- ***Effective January 1, 2011***

Coverage Changes in 2013

- **Flexible Spending Arrangement Cap**
- Currently no health FSA contribution limit
- Act limits the maximum annual contribution to \$2,500
- ***Effective January 1, 2013***

Coverage Changes in 2014

- **Waiting Periods**
 - *Eligibility waiting periods limited to 90 days*
- **Pre-existing Condition Exclusions**
 - *Pre-existing condition exclusions for **adults** prohibited*
- ***Effective January 1, 2014***

CLASS Act

- **National, Government, Long-Term Care Program**
- Voluntary program
- Participating employers must automatically enroll employees
 - *Employees may opt out*
- Employees must pay premiums for at least 5 years
- Provides benefit of \$50 per day
- Enrollment to begin ***January 1, 2011***

Simple Cafeteria Plans

- Employers with 100 or fewer employees
- Automatically satisfies nondiscrimination rules
- Required employer contributions
 - *Uniform percentage (at least 2%) of compensation; or*
 - *Lesser of*
 - 6% of pay
 - 2 times salary reduction contributions
 - *Employer contribution required even if employee does not make salary reduction contributions*
- ***Effective January 1, 2011***

Explanations of Coverage

- Summary of coverage required at enrollment
- Plan modifications must be disclosed 60 days in advance
- Regulations to be issued by March 23, 2011
- Compliance penalty: up to \$1,000 per day
- ***Effective March 23, 2012***

Wellness Programs

- Rewards currently limited to 20% of cost of employee-only coverage (or family coverage if family members may participate in wellness program)
- Act increases reward limit to 30%
- Limit may be increased to 50% by Secretaries of Labor, HHS, and Treasury
- ***Effective January 1, 2014***

Play or Pay

- Applies to employers with over 50 employees and a health benefit plan
- Penalty for each month that each full-time employee is enrolled in government-subsidized coverage through an Exchange
 - *Lesser of \$250 for each employee receiving subsidized coverage through an Exchange or \$167 per full-time employee*
- If no health plan: monthly penalty of \$167 per full-time employee
 - *First 30 employees excluded from penalty amount*

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