The Vita Viewpoint
Important Information for Decision Makers

The National Healthcare Bill

Overview

On March 23, 2010, President Obama signed the national health insurance reform bill, the Patient Protection and Affordable Care Act. Congress is also in the process of working on a "sidecar-fixer" reconciliation bill, H.R. 4872. This reconciliation bill aims to "fix" certain provisions of the bill that was just signed; however, the fate of H.R. 4872 is far from certain as it faces a number of procedural challenges in the Senate.

The effective dates for various provisions range from six months from now through 2018. The bill is 908 pages long . . . so Vita's normal commitment to providing a one page summary has been set aside in the interest of giving you a useful recap!

In Brief

- ***State-based Insurance Exchanges***: Insurance exchanges will be created and will be open to individuals without access to affordable health insurance and to very small businesses. All insurance sold through the exchanges will be private insurance (and will have to comply with extensive rules regarding required benefits). Certain employers will be required to provide employees with vouchers equivalent to the employer contribution to health coverage for the purpose of purchasing insurance through an exchange. Insurance exchanges are slated to be operational by 2014.
- ***Insurance Reforms***: The Act contains extensive insurance reforms, including:
  - ✓ Prohibition against using pre-existing conditions or health history in pricing insurance
  - ✓ Guarantee issue rules
  - ✓ Elimination of lifetime benefit limits and unreasonable annual benefit caps
  - ✓ Requirement to provide preventive services and immunizations without any cost sharing
  - ✓ Discrimination rules applicable to employer-provided insurance, and more.

  It also requires insurance policies to allow for coverage of adult children through age 26. The majority of these provisions become effective for plan years beginning six months after enactment.
- ***Employer Reporting Requirements:*** Employers with more than 50 employees will be required to report whether they offer health coverage to full-time employees and dependents, the length of the waiting period, the lowest cost option in each enrollment category, the employer's share of the total allowed costs of benefits, and the number and names of covered employees. These provisions will become effective in 2014.
- ***Minimum Loss Ratios***: The Act mandates minimum loss ratios on health insurance policies. Individual and small group plans must spend 80% of premium dollars on medical services. Large group plans must spend at least 85%. The loss ratio provisions are slated to be effective in 2011, but this is a *very* contentious issue.

- ***Individual Mandate:*** The Act imposes a requirement on virtually all Americans to buy health insurance or pay a penalty on their personal income tax return. There are many subsidies for low and lower-middle income Americans to help them buy the required health insurance. The penalty would be equal to the "bronze level" health plan premium (the authorized plan with the highest allowable co-pays and deductibles, other than the "young invincible plan" open to young adults). There are several exceptions to the mandate rule, including a three month coverage gap allowance, hardship (as determined by HHS), individuals residing outside of the U.S., unlawful aliens, and those with religious objections. These provisions will become effective in 2014.
- ***Employer Penalty Fees:*** The law does not require employers to provide health coverage to employees, but it imposes penalties on certain employers to encourage them to do so. The penalties apply to employers with at least 50 full-time employees working 30 or more hours per week. The penalty for not offering health coverage is $750 times the number of full time employees. Separately, if an employer *does* offer health insurance and any of its employees opt out and obtain a federal subsidy (tax credit) to buy their health insurance, a penalty of $3,000 times the number of employees who actually obtain the credit will be levied. These employer penalties become effective in 2014.
- ***New Taxes for High Income Earners:*** The Medicare payroll tax will increase by 0.9% on wages in excess of $200,000 for an individual and in excess of $250,000 for a joint return. The new Medicare Tax will become effective in 2013.
- ***Excise Tax on High Value Plans:*** The law imposes a non-deductible 40% excise tax on health insurers (or employers if they administer their own self-insured plan) if the employer offers "high value health insurance." High value health insurance (which includes all coverage aggregated, including FSAs but does not currently include stand-alone dental and vision insurance) is defined as having premiums greater than $8,500 per year for individual coverage and $23,000 for family coverage. The high value tax would be implemented in 2013 and coverage values would be indexed starting in 2014. The act also provides for a higher excise tax threshold for the 17 "highest cost" states. The increased threshold starts at 120% and is phased down to 100% in 2016.
- ***Employer Reporting Requirements:*** Beginning in 2011, W-2 statements issued to employees must include the aggregate cost of employer-sponsored health benefits. Aggregate cost is roughly a COBRA-equivalent premium, less any contributions. The act also expands current 1099 reporting requirements, most significantly by requiring that a 1099 to be sent to most corporate entities, not just individuals. Lastly, the act adds reporting requirements necessary to support both the individual mandates and employer penalties for not providing health insurance.
- ***FSA Plans:*** The Act limits annual contributions to health FSA plans to $2,500 (indexed). In addition, over-the-counter medications will no longer be an eligible expense for reimbursement, unless the medication is prescribed by a doctor. These provisions become effective in 2011, however, the reconciliation (fix-it) bill looks to push at least the $2,500 maximum deferral provision out to 2013.
- ***Random Other Stuff:*** The act increases the threshold for claiming an itemized deduction for unreimbursed medical expenses from the current 7.5% to 10%. Native Americans may exclude from gross income the value of qualified health benefits received directly or indirectly from an Indian tribe health service or tribal organization.

More Information

There are obviously many more details to be unveiled in the coming weeks and months. Vita will be hosting an educational seminar and webinar series to outline the new rules and required employer action in the coming months.

