



# New Healthcare Reform: If and When It Will Impact You

## Client Advisories

03.27.2010

---

On March 23, President Obama signed the healthcare legislation approved by the U.S. House of Representatives (the "House") on March 21, 2010. The Patient Protection and Affordable Care Act ("Patient Protection Act"), which had been approved by the Senate on December 24, 2009, is now law. The House also passed, on March 21, 2010, the Healthcare and Education Tax Credits Reconciliation Act of 2010, which serves as a "sidecar" bill, which will allow amendments to the Patient Protection Act to be passed by the Senate with only 51 votes using the budget reconciliation rules. For the purposes of this alert, we will refer to both laws collectively as the "healthcare reform laws" or the "healthcare package."

The healthcare package is massive, the law itself is over 1,000 pages long - far too long for any sort of detailed assessment in this alert. However, what many individuals and employers are concerned and confused about is what exactly the short term implications of the newly passed laws are for them. While the laws are complex and multi-faceted, only a few provisions of the law will be effective in the immediate future, with some of the more far reaching measures only beginning to take effect in 2014.

The healthcare reform laws provide that beginning in 2013, all individuals not covered by Medicaid or Medicare, with certain specific exceptions, will be required to have healthcare coverage or pay penalties. The penalties will be based on the higher of either a percentage of the individual's household income or a flat dollar amount, a rate which will escalate from 2014 through 2016. (For example, in 2014, the penalty will be either 1% of income or \$95, whichever is greater; in 2016, the penalty will be the greater of 2.5% of income or \$695). Individuals below the threshold for filing an income tax return are exempt from the penalty. Lower-income individuals, as well as some middle-class families, will receive a credit or voucher to help pay for the required coverage. The healthcare reform laws provide premium assistance tax credits and reduced cost sharing to qualified individuals, on a sliding scale. The credit is designed to guarantee that qualified individuals would not spend more than a specific percentage of their income on medical insurance premiums.

Individuals with Medicare, Medicaid, Veterans' Affairs, or other government-sponsored coverage would be considered as having the minimum essential coverage.

Employer-provided coverage will generally satisfy the coverage requirement. The healthcare reform laws do not require employers to provide health insurance coverage. However, beginning in 2014, employers with 50 or more full-time employees that do not provide minimum essential coverage will be liable for an additional tax of \$2,000 for each employee to whom they do not offer coverage. Also starting in 2014, a penalty of \$3,000 per employee would be assessed to those same employers, if the employer offers healthcare coverage, but that coverage is not considered “affordable.” Two conditions would have to be met for the penalty to be triggered: the share of the premium paid by the employee would have to exceed 9.5 percent of income and the employee would have to use federal insurance premium subsidies to purchase coverage through new state health insurance exchanges. In a small break for employers, the first 30 workers are exempted from the penalty payment calculation.

As for small employers (generally less than 25 employees and average annual wages of less than \$50,000), the healthcare reform laws provide an employer tax credit to help offset the cost of employer-provided coverage. In 2010 through 2013, eligible employers may qualify for a tax credit for up to 35 percent of their contribution toward the employee’s health insurance premium. Beginning in 2014, individuals and small businesses would have the option of purchasing health insurance through state-based exchanges. The exchanges would include a not-for-profit run insurance option that will offer competitive benefits at affordable prices. Individuals and small businesses may be eligible, in certain circumstances, to receive credits toward the purchase of insurance through the exchanges. In addition, qualified tax-exempt employers would be eligible for a reduced credit. In addition to these core concepts, the healthcare package contains multiple other provisions worth noting, such as:

- Beginning in 2013, an additional Medicare tax on qualified higher-income individuals.
- Beginning in 2018, a 40 percent nonrefundable excise tax on group insurers if annual premium payments exceed an inflation-adjusted \$10,200 for individual coverage and \$27,500 for family coverage.
- Annual nondeductible fees on various health-related industries, such as medical device manufacturers and importers, health insurance providers and others.
- A 10 percent tax on indoor tanning services, effective for services on or after July 1, 2010.
- Limitations on health insurance executive pay.
- A two-year temporary tax credit to encourage investment in new healthcare therapies for the prevention and treatment of diseases for tax years beginning in 2009 and 2010.
- A cap on health Flexible Spending Account contributions at \$2,500 per year starting in 2013.
- Increasing the cut-off age of young adults to continue to be covered by their parents’ health insurance to 26, as long as the parent is also able to claim the young adult as a dependant for tax purposes and is not eligible for their own employer provided coverage.
- In 2014, waiting periods exceeding 90 days for enrollment in coverage will be banned, as would annual dollar limits on benefits.



As a result of the extensive size, complexity and varying effective dates of the healthcare reform laws, it will take weeks before the package is fully analyzed and all compliance points are outlined. Generally, the impact on employers will be minimal at first. Below are sections of the laws which will go into effect quickly:

- Within six months, group plans have to extend coverage of employees' adult children up to age 26 if the child is not eligible to enroll in another group plan.
- Group plans can no longer have lifetime dollar limits and may only have restricted annual limits until 2014, at which time all annual limits must be eliminated. The law provides that "restricted annual limit" must be interpreted to ensure that access to needed services is made available with a minimal impact on premiums.
- An elimination of the ability for insurance companies to deny coverage for children with pre-existing conditions (A ban on preexisting condition denials for adults will take effect in 2014);
- Seniors will get a rebate to fill the so-called "donut hole" in Medicare drug coverage, which severely limits prescription medication coverage expenditures over \$2,700. As of next year, 50 percent of the donut hole will be filled.
- New plans must cover checkups and other preventative care without co-pays. All plans will be affected by 2018;
- Chain restaurants will be required to provide a "nutrient content disclosure statement" alongside their items. Expect to see calories listed both on in-store and drive-through menus of fast-food restaurants sometime soon;
- The Secretary of Health and Human Services will set up a new Web site to make it easy for Americans in any state to seek out affordable health insurance options The site will also include helpful information for small businesses.
- A small-business tax credit of up to 35 percent of an employer's costs to pay for employee health-insurance costs; and
- Elimination of the ability of insurance companies to cancel coverage, except in cases of fraud.

The bulk of the changes involved in the healthcare reform laws will not impact employers until 2014 and 2018. With fierce opposition to the laws continuing, it will be interesting to see what happens - especially because Republican opponents of the laws will be focusing their elections battles this fall and again in 2012 on repeal of the healthcare reform laws. In addition, at least fourteen state attorneys general have filed suit challenging the healthcare reform laws as unconstitutional. While it may be that further Congressional or court action will affect the healthcare package,, employers should begin to prepare to take steps to ensure compliance with the few portions of the laws, outlined above, which become effective in the short term. We will be issuing alerts in the future to advise employers of any upcoming compliance deadlines or modifications in the laws. If you have any questions about this new law, please contact Archer's Labor and Employment Department at (856) 795-2121.



*DISCLAIMER: This client advisory is for general information purposes only. It does not constitute legal advice, and may not be used and relied upon as a substitute for legal advice regarding a specific legal issue or problem. Advice should be obtained from a qualified attorney licensed to practice in the jurisdiction where that advice is sought.*

## **Related Services**

- Healthcare
- Labor & Employment

© 2025 Archer & Greiner, P.C. All rights reserved.

