

# Legislative Brief

## Health Care Reform: Summary of Significant Changes 2010-11



### HEALTH CARE REFORM

This SullivanCurtisMonroe Insurance Services, LLC Legislative Brief summarizes the major provisions of the health care reform law, the Patient Protection and Affordable Care Act (PPACA). The passage of PPACA was by far, the biggest development of the year and has significantly impacted employer sponsored health plans. PPACA was signed into law on March 23, 2010, and includes several provisions effective in 2010 and 2011. For some of these rules, the specific effective date will depend on the plan year. Also, applicability may depend on whether the plan is a grandfathered health plan or not.

The significant items affecting employer-sponsored health plans in 2010 and 2011 are:

- **Small Business Tax Credit:** Qualified small employers can receive a credit for contributions to purchase health insurance for employees beginning with the 2010 tax year.
- **Extension of Dependent Coverage:** Effective for plan years beginning on or after September 23, 2010, group health plans that offer dependent coverage must provide coverage for adult dependent children up to age 26. Effective March 30, 2010, employer-provided health insurance coverage for these adult children is tax-free to employees.
- **Elimination of Lifetime and Annual Limits:** Effective for plan years beginning on or after September 23, 2010, group and individual plans may not establish lifetime limits on the dollar value of essential benefits. Group health plans may also not establish unreasonable annual limits.
- **Elimination of Pre-Existing Condition Exclusions:** Effective for plan years beginning on or after September 23, 2010, pre-existing condition exclusions may not be applied to enrollees under age 19.
- **Limits on Rescissions:** Effective for plan years beginning on or after September 23, 2010, coverage may not be rescinded (retroactively cancelled), except in the case of fraud or intentional misrepresentation of material fact. Policyholders must be notified prior to cancellation.
- **Coverage of Preventive Health Services:** Effective for plan years beginning on or after September 23, 2010, non-grandfathered health plans must provide coverage for certain preventive health services without imposing cost-sharing requirements.
- **Patient Protections:** Effective for plan years beginning on or after September 23, 2010, the health care reform law puts the following rules in place for non-grandfathered plans:
  - Plans that require designation of a participating primary care provider must permit each participant, beneficiary and enrollee to designate any available participating primary care provider (including a pediatrician for children).
  - Plans that provide emergency services may not require preauthorization for receipt of emergency services and cannot impose higher cost-sharing requirements on out-of-network emergency services.
  - Plans that provide obstetrical/gynecological care and require a designation of a participating primary care provider may not require preauthorization or referral for obstetrical/gynecological care.

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- ***Nondiscrimination Rules for Fully-Insured Plans:*** Non-grandfathered, fully-insured plans will not be able to discriminate in favor of highly compensated individuals as to eligibility or benefits. This provision will be effective sometime after regulations are issued. The regulations will specify the effective date.
- ***New Appeals Process:*** Effective for plan years beginning on or after September 23, 2010, non-grandfathered plans must implement an effective appeals process and must follow minimum requirements for external claims review. A grace period until July 1, 2011 has been granted for some elements of the appeals process.
- ***Early Retiree Reinsurance Program:*** From 2010 until January 1, 2014, employers that provide health coverage to early retirees may be eligible to participate in a federally funded program providing reimbursement to plan sponsors for certain high-cost claims.
- ***Simple Cafeteria Plan:*** Eligible small employers can adopt a Simple Cafeteria Plan beginning 2011. If the employer meets certain requirements related to eligibility and contributions, it will be treated as meeting the cafeteria plan nondiscrimination requirements.
- ***Limits on OTC Reimbursements:*** Beginning in 2011, expenses for over-the-counter medicine or drugs may not be reimbursed by employer plans (such as FSAs and HRAs) without a prescription (except insulin).
- ***Increased HSA Penalty Tax:*** The penalty tax on HSA withdrawals prior to age 65 that are not used for qualified medical expenses will be increased from 10 to 20 percent in 2011.
- ***W-2 Reporting:*** Employers will be required to disclose the value of the health coverage provided by the employer to each employee on the employee's annual Form W-2. Note that this requirement is effective, but optional, for the 2011 tax year and will be mandatory beginning with the 2012 tax year.