

Health Reform

Employer Action Overview

Immediate

	Employer Action Required	Notes
Employers must provide a reasonable break time for employees who are nursing mothers to express breast milk for a period of one year following the birth of the child. Bathrooms are not considered an appropriate place. Employers are not required to pay employee during break unless state mandated.	Yes, employers must establish an appropriate space for nursing mothers who are non-exempt employees.	

June 30, 2010

	Employer Action Required	Notes
Federal Retiree Reinsurance Program pays 80 percent of claims incurred for retirees (age 55-64) between \$15,000 and \$90,000. Payments must be used to lower costs for retirees. Applies to self-funded and insured retiree plans.	Determine eligibility for reimbursement. Submit application to the Department of Health and Human Services (HHS). Submit claims to HHS.	
National High-Risk Pool for individuals who cannot obtain insurance within the past six months due to pre-existing conditions. This will end on Jan. 1, 2014, once the Exchange plans are operational and guaranteed issue provision takes effect.	No, informational only.	

Sept. 23, 2010

	Employer Action Required	Notes
Plans that offer dependent coverage must extend coverage up to age 26, regardless of marital status, residency, student status, etc.	Yes, communicate to employees during open enrollment and amend plan documents accordingly. Provide required model notice.	
No lifetime limits/restrictive annual dollar limits. Lifetime and dollar limits may not be applied to essential benefits, except as permitted. In 2010/2011 the minimum annual dollar limit is \$750,000.	Yes, communicate to employees during open enrollment and amend plan documents accordingly. Provide required model notice.	
No pre-existing condition limitations for children under 19 years (2014 will extend to all persons regardless of age).	Yes, communicate to employees during open enrollment and amend plan documents accordingly. Determine whether any children were previously denied for a pre-existing condition.	

Sept. 23, 2010 *cont'd*

	Employer Action Required	Notes
No rescission of coverage unless fraud or material misrepresentation.	Yes, communicate to employees during open enrollment and amend plan documents accordingly.	
Preventive care coverage with no cost sharing. Minimum coverage includes some immunizations. Does not apply to grandfathered plans.	Yes, if the plan is not grandfathered then communicate to employees during open enrollment and amend plan documents accordingly.	
Emergency services must be covered at in-network levels, regardless of provider. Does not apply to grandfathered plans.	Yes, if the plan is not grandfathered, amend plan documents and communicate to employees during open enrollment. Provide required model notice.	
Enrollees may designate any in-network primary care physician (PCP) as PCP; no referral required for OB/GYN. Does not apply to grandfathered plans.	Yes, if the plan is not grandfathered, amend plan documents and communicate to employees during open enrollment. Provide required model notice.	

2010

	Employer Action Required	Notes
Rate review — Process established that requires insurers to justify rate increases.	No, carrier will administer.	
Small Business Tax Credit	Yes, small employers should claim the credit starting with their 2010 annual income tax return if applicable.	

2011

	Employer Action Required	Notes
Over-the-counter drugs no longer eligible for reimbursement under flexible spending accounts (FSAs), health saving accounts (HSAs) and health reimbursement arrangements (HRAs) without a prescription.	Yes, communicate to employees during open enrollment and amend plan documents accordingly. Work with any third-party administrators to revise electronic payment cards.	
Section 105(h) nondiscrimination eligibility rules based on annual salary. Does not apply to grandfathered plans. Applies to fully insured plans. Effective date delayed until further guidance is released.	Yes, if the plan is not grandfathered, determine whether any plan's eligibility rules have the effect of discriminating in favor of highly compensated employees. Change plan design as necessary.	
New coverage appeal procedures including external review. Does not apply to grandfathered plans. Effective date delayed until July, 2011.	Yes, if the plan is not grandfathered, amend plan documents and communicate to employees during open enrollment. Develop new policies and procedures for internal and external appeals. Provide required model notice. The model notice for non-grandfathered self funded plans has not yet been released. The model notice for non-grandfathered fully insured plans has been released.	
Reporting on medical loss ratio — Insurance carriers are required to report the portion of premium dollars spent on “clinical services, quality and other costs.” Self-insured plans are exempt.	No, carrier will administer.	
Cafeteria Plan Safe Harbor — Small employers (100 or less) will be allowed to adopt new “simple cafeteria plans.” These plans will be treated as meeting the nondiscrimination requirements.	Yes, small employer action is required if the employer would like to implement this plan design. Contact your advisor for more information.	

2012

	Employer Action Required	Notes
Employer W-2 reporting — Include aggregate value of health coverage (except contributions to HSA and salary reduction contributions to FSA). Applies to coverage provided in 2012 for reporting in 2013.	Yes, employers in cooperation with their payroll vendor will need to quantify the value of health coverage to be included on W-2s.	
Uniform Explanation of Coverage must be provided to each enrollee and meet specified criteria, yet to be determined. There will be a fine of \$1,000 per enrollee for noncompliance.	Yes, if self-funded, the plan administrator or plan sponsor must provide Uniform Explanation of Coverage timely. If fully insured plan, carrier will administer.	

2012 *cont'd*

	Employer Action Required	Notes
Material modification notice 60 days prior to change. Effective date delayed until after release of guidance on Uniform Explanation of Coverage.	Yes, employers will have to provide appropriate notice timely or risk penalty.	
Quality information reporting to HHS and enrollees concerning quality issues. More guidance expected.	Yes, employers will have to provide appropriate reports. Guidance forthcoming.	
National Voluntary Long-term Care Program (CLASS Act) — Employees will purchase community living assistance services and supports coverage through payroll deduction. Effective date unclear, but expected late 2012 or early 2013.	Yes, employers that want to implement automatic enrollment and payroll deduction for this program will need to watch for additional details.	

2013

	Employer Action Required	Notes
A tax increase of 3.8 percent for high wage earners on passive income (investment income, capital gains, rent, etc.) plus 0.9 percent increase in Medicare payroll tax on earned income. Threshold amounts are \$200,000 (AGI) for individuals and \$250,000 (AGI) for families.	Optional. Employers may want to communicate information to employees.	
FSA maximum reimbursement cap set at \$2,500 for health care FSA.	Yes, employers should communicate change to employees during open enrollment and amend plan documents accordingly.	
Elimination of employer deductible subsidy under Medicare Part D.	Yes, the expense resulting from this change must be recognized in the first quarter of 2010 even though the change in law may not be effective until 2013.	
Notice to employees regarding the availability of Exchange plans (template to be provided).	Yes, employers must provide appropriate notice. Guidance forthcoming.	
New federal premium tax on group plans to fund comparative effectiveness research program. Annual tax equates to \$2 per enrollee. Applies to self-funded and fully insured plans.	If self-funded plan, plan sponsor must pay the tax as required. If fully insured plan, carrier will be responsible for payment of tax.	

2014

	Employer Action Required	Notes
No waiting periods longer than 90 days.	Yes, amend plan documents if existing waiting period exceeds 90 days.	
No lifetime/annual dollar limits on essential benefits.	If self-funded plan, amend plan documents accordingly. Carrier will administer fully insured plan changes.	
Employer voucher available for certain income levels (less than 4x federal poverty level (FPL) whose share of premium exceeds 8 percent, but is less than 9.8 percent of household income. Voucher is equal to employer's largest potential contribution to employer plan. Employers providing vouchers are not subject to penalties for employees that receive premium credits in the Exchange.	Yes, employers should calculate affordability of plan at each contribution level and family size relative to FPL. More guidance forthcoming on procedure for use of vouchers.	
Auto enrollment for all full-time employees (more than 200 employees).	Yes, revise enrollment procedures if applicable.	
Employer mandate (for groups of 50+) — If group has at least one full-time employee receiving a premium tax credit due to the coverage being “unaffordable” (defined as greater than 9.5 percent of household income) or not “qualified” (defined as 60 percent actuarial value), employer will pay the lesser of \$3,000 per full-time employee receiving the premium tax credit or \$2,000 for each full-time employee. The latter penalty applies if employer provides no coverage.	Calculate affordability of plan in light of employee compensation and adjust contribution levels as necessary. Consider long-term impact of compensation and composition of workforce (full-time vs. part-time). Draft employment policy concerning retaliation against individuals receiving premium tax credit.	
State-based health insurance exchanges are available (for groups up to 100); groups over 100 will be permitted to purchase coverage in 2017 if state allows.	No, informational only.	
Individual mandate — Citizens and legal residents are required to have “minimum essential coverage.” Those without it will be taxed the greater of \$695 per year up to a maximum of \$2,085 per family or 2.5 percent of household income. Penalties will be phased in: \$95 in 2014; \$325 in 2015; \$695 in 2016; and then adjusted by cost of living thereafter.	No, informational only.	
Individual subsidies — Premium credits are available to eligible individuals and families with incomes between 133 and 400 percent of FPL to purchase insurance through the health insurance exchanges.	No, informational only, unless future regulations concerning employer notice about Exchanges requires otherwise.	
Guarantee issue and guarantee renewability.	Yes, communicate to employees during open enrollment and amend plan documents accordingly.	

2018

	Employer Action Required	Notes
<ul style="list-style-type: none"> • 40 percent tax on Cadillac Plans imposed on insurers and administrators of self-funded plans. • Aggregate value cannot exceed \$10,200 for single and \$27,500 for family. • Total aggregate value = reimbursement for FSA or HRA, employer contributions to HSA and medical plans. <p>If health care costs increase more than expected, the initial threshold will automatically adjust upward.</p>	<p>Yes, review current plans to determine potential applicability of Cadillac tax and make adjustments to plan design as required prior to 2018. Consider compensation adjustments accordingly.</p>	

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59428 1/11 (BP-13318-10)

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