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Health Care Reform: Top 10 Key Impacts for Employers

In March 2010, Congress passed and the President signed sweeping health care reform into law. Many stakeholders have and will be significantly impacted by its provisions. As your insurer and health benefits partner, we want to help point out some of the unique impacts these changes will have for employers. As we receive additional guidance from Congress and designated governmental agencies on some of the changes that are scheduled for implementation further in the future, we will update the information in this article. The following is a summary of employer-specific impacts of the new health care reform law.

1. Grandfathering

Any plan that existed before March 23, 2010 (the day the law was enacted) may be 'grandfathered' if the plan remains mostly the same. Still, a grandfathered plan is not exempt from all of the new law's coverage requirements. In order to maintain grandfathered status, employers and individuals are required to: continue nearly the same employer contribution rate toward employee premiums that they were paying as of March 23, 2010; keep virtually the same copayments, deductibles, and coinsurance maximums with very limited changes; and maintain documentation of all plan materials, benefits and terms that were in effect on March 23, 2010, as well as the dates and contents of changes after that date. Grandfathered plans must implement some reform requirements such as extending coverage to children up to age 26, and eliminating lifetime limits and annual limits. However, grandfathered plans are exempt from other requirements, such as first dollar coverage for certain preventive care services, rating limitations and out-of-network emergency care covered at in-network levels.

2. Early Retiree Reinsurance Program

Employers who offer retiree health coverage and have retirees 55 or older and not yet eligible for Medicare should look carefully at this subsidy program. Subsidies can be reimbursed for 80% of claims paid between \$15,000 and \$90,000. \$5 billion will be

available for this program beginning June 2010, until funds run out. However, please note some restrictions apply – to be eligible, employers must have provisions in their plan to mitigate the costs for chronic/high cost conditions, and subsidies must not be used for general funds, but to lower the costs of programs. Regence will work to assist you to provide the necessary claims history submission if you register to participate in the program.

3. Small employer tax credits available

For employers with 25 or fewer full time employees and annual average wages of \$50,000 or less who pay at least 50% of premium costs, a tax credit of up to 35% of employer-paid premiums or state average premiums is available beginning in 2010 through 2013. Go to www.irs.gov for more information. Regence and H&R Block® have partnered to offer a tax calculator to small employer groups who want to assess its relevance to their company. You can use this link to access it:

<http://www.regence.com/taxcredit>.

4. Dependent Coverage & Pre-existing Conditions for Children

On plans that currently provide dependent coverage for children, coverage will now be available for adult children up to age 26 regardless of marital or student status, or financial dependence. Children under the age of 26 not enrolled due to former age restrictions may enroll upon your group's renewal. A notification has been or will be mailed to affected employees advising them of this change. For grandfathered plans, please note that Regence is not required to extend coverage to dependents if they are eligible for other group coverage as a certificate holder or spouse. Additionally, pre-existing condition waiting periods will not be applied for enrollees under age 19.

5. Annual and Lifetime Dollar Limits

Beginning in 2014, the new law prohibits annual dollar limits for benefits that are deemed “essential.” Prior to 2014, “restricted” annual dollar limits for essential benefits are permitted. The categories of “essential benefits” will include: ambulatory patient, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, and pediatric services, including oral and vision care. Additionally, overall lifetime dollar limits and lifetime dollar limits on essential benefits are prohibited. More specific guidance will be forthcoming from the U.S. Department of Health and Human Services

on the definition of “essential benefits.” There are no restrictions on limiting the amount of non-essential covered benefits.

6. Non-discrimination on health plan offerings

Insured plans will be subject to special nondiscrimination rules. The IRS stated in December 2010 that it will not apply the nondiscrimination requirements in the health reform law until it has issued final regulations explaining what practices are not permitted. Those regulations are expected in mid-2011.

7. Rescissions/Cancellations

Beginning with plan years on or after September 23, 2010, insurers may not rescind (retroactively terminate) policies except in cases of fraud or intentional misrepresentation of material fact. Some limited retroactive cancellations may be possible for individuals covered under group policies if the retroactive cancellations are due solely to delays in administrative recordkeeping and if certain other criteria are met.

8. W2 Reporting

The IRS has deferred the new requirement for employers to report the cost of coverage under an employer-sponsored group health plan. Reporting by employers is optional in 2011. The Treasury Department and the IRS have determined that this relief is necessary to provide employers the time they need to make changes to their payroll systems or procedures in preparation for compliance with the new reporting requirement. The IRS will be publishing guidance on the new requirement later this year.

9. Exchanges

States will set up American Health Benefit Exchanges (internet portals that allow individuals and small businesses to “shop” for health insurance) by January 2014. Employers will be required to give written notice to employees of the existence of the Exchange. Employers with 50 or more employees will be subject to penalties for not providing insurance or for providing “unaffordable” insurance if any of their employees receive premium subsidies through the Exchange.

10. Cadillac Plan Tax

Beginning in 2018, a 40% penalty will apply to high cost health plans. For insured plans, the insurer pays the tax; for self-funded plans, the group pays.

Need more information?

- Visit the tab titled "Health Care Reform" on Regence.com
- Federal information: Healthcare.gov
- State information: <http://www.insurance.utah.gov/health/healthreform.html>

Health insurers continue to receive information from the U.S. Department of Health and Human Services regarding the new law. Therefore, this information is subject to change. The information provided in this document should not be construed as legal advice.