Health Reform
Employer Perspective
Federal requirements effecting employers expanded significantly in 2009 and 2010:

- CHIPRA
- ARRA (COBRA and HIPAA)
- Mental Health Parity
- GINA
- Michelle’s Law
- Mandatory Medicare Secondary Payer Reporting

New Health Reform Requirements continue to be a resource burden for Employers from both an administrative and financial perspective

- Signed into law March 23rd and March 30th, 2010 (2 pieces)
- Impact begins in 2010 and extends out to 2018
- Individual and Employer Mandates along with launch of Exchange effective 2014
- No Certainty about impact….few details available for even immediate requirements
- Detail to be worked out in future regulations issued jointly by DOL, IRS, & HHS
Immediate Impact for Grandfathered Plans

Employers can avoid some requirements by keeping coverage the same after law’s effective date (March 23, 2010)
- Much debate about “plan” and what kinds of changes will alter coverage

Immediate Changes Required (1st plan year after 9/23/2010):
- No lifetime benefit maximum limits
- No unreasonable annual limits (no limits on “essential” benefits in 2014)
- Dependent coverage for adult children up to age 26
- No preexisting condition exclusions for kids under 19
- Rescission of coverage not permitted (except fraud or intentional misrepresentation)
- Immediate changes with delay on compliance requirement:
  - New summary of benefits and coverage (2012?)
  - Auto-enrollment for employers with more than 200 employees (?)
  - No excessive waiting periods (2014?)
**Extended Dependent Coverage**

**Regulation Language:** **SEC. 2714. EXTENSION OF DEPENDENT COVERAGE**

11 (a) **IN GENERAL.**—A group health plan and a health insurance issuer offering group or individual health insurance coverage that provides dependent coverage of children shall continue to make such coverage available for an adult child (who is not married) until the child turns 26 years of age. Nothing in this section shall require a health plan or a health insurance issuer described in the preceding sentence to make coverage available for a child of a child receiving dependent coverage.

20 (b) **REGULATIONS.**—The Secretary shall promulgate regulations to define the dependents to which coverage shall be made available under subsection (a).

(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to modify the definition of ‘dependent’ as used in the Internal Revenue Code of 1986 with respect to the tax treatment of the cost of coverage.

Definition not yet provided by HHS

Clarification that tax favored status of benefits will remain

Reconciliation Act removed requirement that child be unmarried

Unclear what employers will be able to charge for this coverage

Before 2014, grandfathered plans only have to cover adult children if not eligible to enroll in another employer plan
Immediate Impact for Non-Grandfathered Plans

For Non-Grandfathered Plans (1st plan year following 9/23/2010):

- 100% coverage for Preventive Care
  - Specific language defines what is Preventive Care
  - Unclear if dental and vision for children will be included

- Patient Protection Requirements:
  - No prior auth or increased cost-sharing for emergency services (in or out network)
  - Enrollees allowed to selected any available participating PCP
  - No prior auth or referral for OBGYN care
  - New Appeals process

- No pre-existing limitation for children under age 19 (applies to all in 2014)

- Fully insured plans subject to Section 105(h) discrimination testing

- Immediate changes with delay on compliance requirement:
  - Minimum covered services are specified based on existing federal guidelines on specific topics
  - Coverage of routine costs in clinical trials for life-threatening diseases
**FSA/HRA/HSA Changes**

- Changes in tax treatment and benefits allowed under FSA/HRA/HSA
- January 1 effective dates may impact mid-year plans or plans with grace period

<table>
<thead>
<tr>
<th>Year</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>Employees will no longer be able to receive pre-tax reimbursements from their FSA, HRA or HSA for non-prescribed over-the-counter medications.</td>
</tr>
<tr>
<td></td>
<td>Excise tax for nonqualified HSA withdrawals will increase from 10% to 20%.</td>
</tr>
<tr>
<td>2013</td>
<td>Employee contributions to FSAs will be capped at $2,500 annually (may change from household limit to plan limit), with the cap adjusted annually to the Consumer Price Index.</td>
</tr>
</tbody>
</table>
## Employee Notification Requirements

### Employee notification requirements for value of benefits and other items

<table>
<thead>
<tr>
<th>Year</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>Employers will need to start reporting the value of the employer-sponsored coverage to employees on their W-2s</td>
</tr>
<tr>
<td>2012</td>
<td>Group plans must report to Participants and HHS on whether benefits provided meet criteria on improving health outcomes, reducing medical errors, and wellness/health promotion activities</td>
</tr>
<tr>
<td></td>
<td>All plans must provide new summary of benefits to enrollees at specified times (no more than 4 pages in length, must be culturally and linguistically appropriate)</td>
</tr>
<tr>
<td>2013</td>
<td>Employers will need to begin notifying employees about state exchanges and the availability of premium subsidies and “free choice vouchers”, all of which will be available beginning in 2014.</td>
</tr>
</tbody>
</table>
Effective January 1, 2014, employers must annually report a number of pieces of data to the IRS:

- Whether the employer offers minimum essential coverage
- Waiting period for health coverage
- The monthly premium for the lowest cost option in each enrollment category under the plan
- The employer’s share of the total allowed cost of benefits provided under the plan
- The number of full-time employees during each month
  - Full-time defined as 30 hours/week
- The name, address and taxpayer identification number of each full-time employee, and the months each employee was covered under the employer’s plan, and “Such other information as the [Health and Human Services (HHS)] Secretary may require.”
Fees and Penalties Imposed on Employer Plans

Under the law, employers will be subject to a number of fees and exposed to penalties for certain behaviors:

<table>
<thead>
<tr>
<th>Year</th>
<th>Description</th>
</tr>
</thead>
</table>
| 2013 | Fees assessed to fund comparative effectiveness research agency. For fully insured employers, the health insurer will be assessed the fee. The fee will end on September 30, 2019.  
  2013: $1 times the average number of covered lives  
  2014-2019: $2 times the average number of covered lives |
| 2014 | “Employer Mandate” or “No Coverage Penalty” If an employer has 50+ FTEs, then the subject to penalties if provides either **no health coverage to FTE’s**, or provides coverage to full-time employees that is **not affordable. Penalties vary** from $2,000 to $3,000 per employee and are prorated monthly |
| 2018 | “Cadillac Tax” A 40% excise tax applied to plans costing more than $10,200 for single coverage/$27,500 for family coverage |
Reform encourages continued development of wellness programs

<table>
<thead>
<tr>
<th>Year</th>
<th>Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>Effective in 2010, wellness programs may not require disclosure or collection of any information relating to the presence of firearms, and may not base premiums, discounts, rebates or rewards on the basis of firearm or ammunition ownership.</td>
</tr>
<tr>
<td>2014</td>
<td>The law codifies the HIPAA nondiscrimination rules on wellness programs and increases the incentive cap of 20 percent of premium to 30 percent.</td>
</tr>
<tr>
<td></td>
<td>The HHS Secretary has the discretion to increase the incentives cap to 50 percent.</td>
</tr>
</tbody>
</table>
Beginning in 2010, eligible small businesses are eligible for phase one of the small business premium tax credit:

- Small employers with less than 25 employees may be eligible for a tax credit on a sliding scale based on number of employees and average payroll, of up to 50% of premiums for up to 2 years if the employer contributes at least 50% of the total premium cost.
- Average salary must be $50,000 or less.
- Businesses with no tax liability and non-profits are eligible for the credit.
## Retiree Plans

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>Recognize liability for 2013 change in tax deductibility of Part D Subsidy (may want to investigate EGWP approach)</td>
</tr>
<tr>
<td></td>
<td>Effective June 21, 2010, temporary reinsurance program available for early retirees. Reimburses plan sponsors 80% of claims between $15,000 and $90,000 for pre-Medicare-eligible retirees (age 55-64). Employers must apply.</td>
</tr>
<tr>
<td>2013</td>
<td>Beginning of regulations that will close Part D Doughnut hole by 2020</td>
</tr>
<tr>
<td></td>
<td>Federal subsidy for Medicare Part D coverage continues, but subsidy becomes taxable income</td>
</tr>
<tr>
<td></td>
<td>Temporary Reinsurance Program Ends (may end earlier if funding exhausted)</td>
</tr>
<tr>
<td></td>
<td>Effective January 1, 2013, increase on Medicare Hospital Insurance Tax for higher income earners (based on Household Income)</td>
</tr>
</tbody>
</table>
Considerations for Exit Strategy

Employers are burdened with financial and administrative requirements for providing health benefits

2014 Individual Market Exchange becomes available

However, value of current benefits not transferrable

Current Pre-Tax Value of Benefit: $5,000
Less: Post Tax Penalty for Not Offering Benefits\(^1\): $3,333
Value of Benefit Available to Employee: $1,667
Less: Amount Taxable to Employee @ 28% tax rate $467
Available Funds for Employee To Purchase Coverage: $1,200

\(^1\): $2,000 penalty @ 40% tax rate
Impact on Rating

- Minimum Loss Ratio Requirements (2011)
- Guaranteed availability and renewability (2014)
- Nondiscrimination based on Health Status (2014)
  - Strict modified community rating standards for groups <100
    - Premium variations only allowed for age (3:1), tobacco use (1.5:1), family composition and geography
  - Set Plan Designs (Bronze, Silver, Gold, Platinum, Catastrophic)
  - Geographic regions to be defined by the states
  - Experience rating would be prohibited
  - Wellness discounts are allowed for group plans

- Cost Sharing Restrictions (2014)
  - Group health plans must pay 60% of the total cost of coverage
  - Out of pocket limits can’t exceed those allowed for HDHP plans

- Impact of Premium Subsidies and Free Vouchers (2014)
Free Choice Vouchers

Used by individuals to offset cost of coverage in the exchange (2014)

- Paid by Employer to qualified employees
- Non-Taxable to Employee
- Only required if employer offers coverage
- Voucher = Employer Contribution to Health Plan
- No employer penalties for employees receiving vouchers

Qualified Employees

- Household income <400% of Federal Poverty Level (FPL)
- Contributions to Employer Plan Between 8% and 9.8%

<table>
<thead>
<tr>
<th></th>
<th>400% FPL</th>
<th>8%/Mo. Income</th>
<th>9.8%/Mo. Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single:</td>
<td>$44k</td>
<td>$293</td>
<td>$359</td>
</tr>
<tr>
<td>Family of 4:</td>
<td>$88k</td>
<td>$587</td>
<td>$719</td>
</tr>
</tbody>
</table>

Copyright © 2009 McGraw Wentworth, Inc. All rights reserved.
Premium Credits

Paid by the Government (taxpayers) to offset cost of coverage in the exchange for low income individuals

- Refundable and advanceable premium credits beginning in 2014
- Individuals/families with incomes between 133-400% FPL
- Credits based on a sliding scale

Qualified Individuals

- Individuals without Employer Coverage
- Individuals with Employer Coverage where
  - Plan value does not meet 60% actuarial value test, OR
  - Payroll contributions exceed 9.5% of income
- Need to be US Citizen or Legal US Immigrant
Other Initiatives

- State Exchanges
- Health care choice compacts, Co-ops, Multi-State Plans
- State Requirements (i.e., web portals, requirement waivers)
- Industry Fees/Taxes
- Voluntary Long Term Care Program (employer impact?)
- Individual Mandates
- Administrative Simplification
- High Risk Pools
- Simple Cafeteria Plans
- Medicare changes/cost reductions (cost shift to employers?)
- Medicaid changes/expansion
- Comparative Effectiveness research
- Waste Fraud and Abuse in public programs
- Quality Strategies
- Wellness, Preventive Care, Nutritional Information initiatives
- Provider workforce initiatives
Summary Thoughts

Stay calm!

Be Engaged
- Not enough detail to immediately act, but it’s coming!
- Many initiatives for 2010/2011 with guidance/ regulations that will be release intermittently

Have a technically capable and effective partner
- Actionable Information (what do you need to do and when)
- Keep focus on near term unless

Develop an action plan, take it one step at a time

Communicate with Leadership and Employees