

## What Health Care Reform Means To You

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After a rancorous, highly partisan process, the President signed into law on March 30 the Health Care and Education Reconciliation Act of 2010 (H.R. 4872), completing a massive overhaul of the nation's health insurance and health delivery systems. The bill is complex, has numerous future effective dates, and many provisions still subject to interpretation.

**Insurance mandates.** All individuals not under Medicare or Medicaid or otherwise exempt or covered by a qualifying employer plan must obtain coverage beginning in 2014. Low and moderate income individuals are eligible for tax credits or vouchers to help pay for premiums. Dependent children get to stay on their parents' insurance policies until age 26. Caps on policy lifetime benefits will be eliminated. Individuals and businesses currently with coverage may keep it under grandfather provisions. Starting in 2014, it will be illegal for any health insurance plan to use pre-existing conditions to exclude, limit or set unrealistic rates on the coverage an individual or dependent can receive.

**Individual penalties.** Beginning in 2014, an individual will pay a monthly penalty for failing to maintain qualifying coverage. The annual penalty is the greater of a flat dollar amount or percentage of income as follows:

2014 – \$95 or 1%  
2015 – \$325 or 2%  
2016 – \$695 or 2.5%

A family's total penalty cannot exceed 3X the flat dollar penalty (i.e., \$2,085 in 2016). The flat dollar penalty for individuals under age 18 is 50% of the regular amount. There are

numerous exceptions, including individuals who make less than the amount required to file an income tax return.

**Individual tax credits.** Depending on family size and income, premium assistance tax credits will range from 2 to 9% of income. A family of four with income of \$88,200 or less would begin to qualify for a premium assistance tax credit.

**Medicaid eligibility.** The bill expands Medicaid to cover those with income less than 133 percent of the Federal Poverty Level. This means a family of four with household income of less than \$29,300 will now qualify.

**Business provisions.** There is no mandate for employee coverage. However, large (50 or more employees) employers will be faced with "play or pay" penalty taxes if they fail to offer qualifying coverage and have one or more full-time employees receiving the premium assistance tax credit. Even if qualifying coverage is offered, the penalty will apply if one or more employees enrolled in an insurance exchange receives a premium assistance tax credit or cost-sharing. "Full-time" is defined as working 30 or more hours weekly. The penalty tax amounts to \$167 per month per employee. However, the first 30 employees are exempt from the penalty tax. Employees who choose not to participate in the employer's plan and meet income tests must be given "free choice vouchers." New information returns must be filed with the IRS detailing the coverage and premiums provided for each employee.

(Very) small businesses. Businesses with less than 25 employees and annual payroll of less than \$50,000 are eligible for 35% to 50% tax credits for health insurance premiums paid.

**New Medicare taxes.** In 2013, single individuals with incomes more than \$200,000 and married couples with incomes more than \$250,000 will face higher and expanded Medicare taxes. An additional tax of .9% will apply to earned income over the limits stated above. Furthermore, a new tax of 3.8% on the lesser of (1) net investment income, or (2) the excess of modified adjusted gross income over the threshold amount. Investment income is defined as interest, dividends, royalties, rents, annuity distributions, gains from disposing of property from a passive activity, and income earned from a trade or business that is a passive activity. Trusts and estates will also be subject to the tax.

Distributions from qualified retirement plans, including pensions and certain retirement accounts, would be exempt from paying the additional tax. For example, income from IRAs, SEPs, 401(k), 403(b), and 457(b) plans would be exempt.

This additional tax will require even more attention to be paid to tax planning for investment portfolios. Municipal bond interest would continue to be tax exempt, increasing the relative attractiveness of tax-exempt bonds. The tax will be a further incentive to maximize the use of IRAs and qualified retirement plans while it will be a disincentive for the use of variable annuities. Current owners of variable annuities should

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consider whether cashing out would be advantageous before the tax comes into effect.

**Tax on high cost insurance.** Beginning in 2018, the new law will impose a 40 percent nondeductible excise tax on insurance companies or plan administrators for any health insurance plan with an annual premium in excess of an inflation adjusted \$10,200 for individuals and an inflation adjusted \$27,500 for families. Non-Medicare retirees age 55 and older are eligible for higher thresholds. The “Cadillac plans” tax was opposed by labor unions, who managed to have the effective date deferred.

**Market sector “fees”.** The law imposes annual nondeductible fees on pharmaceutical companies and health insurers. The annual fees would be allocated across industry sectors according to market share. The annual fee for the pharmaceutical industry is \$2.5 billion for 2011; \$3 billion for 2012 to 2016; \$4 billion for 2017; \$4.1 billion for 2018; \$2.8 billion for 2019 and subsequent years. The annual fee for the health care provider industry is \$8 billion for 2014; \$11.5 billion for 2015 and 2016; \$13.5 billion for 2017; \$14.3 billion for 2018 and subsequent years.

**Get your tan now.** The new law imposes excise taxes on medical device manufacturers (excluding hearing aids and eyeglasses) and on tanning services.

**HSA and FSA changes.** The law changes the definition of qualified medical expenses for health FSAs and HSAs to be the same as the definition used for the medical expense itemized deduction (that excludes over-the-counter medicines unless prescribed by a health care professional) beginning in 2011. It also caps health FSA contributions at \$2,500 per year after 2012, which is indexed annually for inflation after 2013.

**Medical expense itemized deduction threshold.** The new law raises the threshold for the medical expense itemized deduction from 7.5% of adjusted gross income (AGI) to 10% of AGI for regular income tax purposes effective in 2013. However, individuals age 65 and older (and their spouses) would be temporarily exempt from the increase through 2016.

**Fiscal implications.** The Congressional Budget Office estimates the law decreased the federal deficit by \$138 billion over the 2010–2019 period. However, Douglas Holtz-Eakin, a former CBO director, says the law actually increases the deficit by \$562 billion.

## About The Author

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