

Summary and Timeline of the *Patient Protection and Affordable Care Act*

The *Patient Protection and Affordable Care Act* was signed into law on Tuesday, March 23, 2010. A second, smaller measure - making changes to the first – was passed by Congress on Thursday, March 25th. It is expected that the President will sign that measure into law. Below is a summary of the benefits and tax implications of those bills.

Highlights

- *No lifetime benefit limits and only limited annual benefit limits
- *Coverage for dependent children up to age 26, as long as they do not have access to other employer-sponsored health coverage (the reconciliation bill also assures that this coverage can be provided on a tax-free basis)
- *No preexisting conditions for children under age 19
- *No cancellation of health coverage, except in cases of fraud (primarily an individual insurance policy issue)
- *New limitations on Flexible Spending Accounts (FSAs) and Health Savings Accounts (HSAs)
- *Higher taxes on wages and investment income for taxpayers with earnings over \$200,000 and 250,000 (joint)
- *Requires employers with 50 or more employees to offer coverage to their employees or pay a fine

2010

Immediate Access to Insurance for Uninsured Individuals with a Pre-Existing Condition. Provides eligible individuals access to coverage that does not impose any coverage exclusions for pre-existing health conditions. This provision ends when Exchanges are operational. Exchanges will be created to help people purchase health insurance from a variety of plans on the open market. This provision is effective 90 days after enactment, and coverage under this program will continue until new Exchanges are operational in 2014.

Small Business Tax Credits. Tax credits of up to 35 percent of premiums will be immediately available to firms that choose to offer coverage; later, when Exchanges are operational, tax credits will be up to 50 percent of premiums. The full credit will be available to firms with 10 or fewer employees with average annual wages of \$25,000, while firms with up to 25 or fewer employees and average annual wages of up to \$50,000 will also be eligible for the credit. There is also up to a 25 percent credit for small nonprofit organizations.

Eliminating Pre-Existing Condition Exclusions for Children. Bars health insurance companies from imposing pre-existing condition exclusions on children's coverage, effective six months after enactment and applying to all new plans in the individual market. (This provision will apply to all people in 2014).

Prohibiting Rescissions. Prohibits abusive practices whereby health insurance companies rescind existing health insurance policies when a person gets sick as a way of avoiding covering the costs of enrollees' health care needs (except in cases of fraud or intentional misrepresentation of material fact). This takes effect for plan years beginning on or after the date that is six months after enactment.

Patient Protections. Protects patients' choice of doctors by allowing plan members to pick any participating primary care provider, prohibiting insurers from requiring prior authorization before a woman sees an ob-gyn, and ensuring access to emergency care. This provision takes effect six months after enactment and applies to all new plans.

Eliminating Lifetime Limits and Restricting Use of Annual Limits. Prohibits lifetime limits on benefits in all group health plans and in the individual market and restricts the use of annual limits. This takes effect for plan years beginning on or after the date that is six months after enactment. When the Exchanges are operational in 2014, the use of annual limits will be banned for new plans in the individual market and all employer plans.

Extending Dependent Coverage. Requires any group health plan or plan in the individual market that provides dependent coverage for children to continue to make that coverage available until the child turns 26 years of age. This takes effect for plan years beginning on or after the date that is six months after enactment.

Prohibits Discrimination Based on Salary. Will prohibit group health plans from establishing any eligibility rules for health care coverage that have the effect of discriminating in favor of higher wage employees. This provision takes effect six months after enactment and applies to group health plans.

Reducing the Cost of Covering Early Retirees. Creates a new temporary reinsurance program to help companies that provide early retiree health benefits for those ages 55-64 offset the expensive cost of that coverage. Effective 90 days after enactment.

Reducing the Medicare (Part D) “Donut Hole” or Coverage Gap. Provides a \$250 rebate check for all Part D enrollees who enter the “donut hole. Currently, the coverage gap falls between \$2,830 and \$6,440 in total drug spending. Effective calendar year 2010. (Beginning in 2011, institutes a 50 percent discount on brand-name drugs and begins generic coverage in the donut hole; fills the donut hole by 2020.)

Ensuring Medicaid Flexibility for States. A new option allowing States to cover parents and childless adults up to 133 percent of the Federal Poverty Level (FPL) and receive current law Federal Medical Assistance Percentage (FMAP) will take effect. Effective April 1, 2010.

Expanding the Adoption Credit and Adoption Assistance Program. Increases the adoption tax credit and adoption assistance exclusion by \$1,000, makes the credit refundable, and extends the credit through 2011. The enhancements are effective for tax years beginning after December 31, 2009.

Tax Relief for Health Professionals with State Loan Repayment. Excludes from gross income payments made under any State loan repayment or loan forgiveness program that is intended to provide for the increased availability of health care services in underserved or health professional shortage areas. This provision is effective for amounts received by an individual in taxable years beginning after December 31, 2008.

2011

Providing New, Voluntary Options for Long-Term Care Insurance. Creates long-term care insurance programs to be financed by voluntary payroll deductions to provide benefits to adults who become disabled. Effective January 1, 2011.

Standardizing the Definition of Qualified Medical Expenses. Conforms the definition of qualified medical expenses for HSAs, FSAs, and HRAs to the definition used for the itemized deduction. An exception to this rule is included so that amounts paid for over-the-counter medicine with a prescription still qualify as medical expenses.

Increased Additional Tax for Withdrawals from Health Savings Accounts and Archer Medical Savings Account Funds for Non-Qualified Medical Expenses. Increases the additional tax for HSA

withdrawals prior to age 65 that are not used for qualified medical expenses from 10 to 20 percent. The additional tax for Archer MSA withdrawals not used for qualified medical expenses would increase from 15 to 20 percent.

Cafeteria Plan Changes. Creates a Simple Cafeteria Plan to provide a vehicle through which small businesses can provide tax-free benefits to their employees. This would ease the small employer's administrative burden of sponsoring a cafeteria plan. The provision also exempts employers who make contributions for employees under a simple cafeteria plan from pension plan nondiscrimination requirements applicable to highly compensated and key employees.

2012

Information Reporting on Payments to Corporations. Businesses paying corporate and non-corporate providers of property and services (e.g., office equipment, cleaning services, shipping services) \$600 or more during the year will be required to file information reports with the IRS and the providers reporting the amounts that were paid.

2013

Additional Hospital Insurance Tax for High Wage Workers. Increases the hospital insurance tax (commonly referred to as Medicare payroll tax) rate by 0.9% to 2.35% on taxpayers with wages and earnings over \$200,000 (\$250,000 for married filing jointly).

Tax on Investment Income. "Medicare contribution tax" of 3.8 percent on net investment income (e.g., dividends, capital gains, rents, passive income) for taxpayers with Adjusted Gross Income greater than \$200,000 (\$250,000 for joint returns).

Limiting Health Flexible Savings Account Contributions. Limits the amount of contributions to health FSAs to \$2,500 per year, indexed by CPI for subsequent years.

Eliminating Deduction for Employer Part D Subsidy. Eliminates the deduction for the subsidy for employers who maintain prescription drug plans for their Medicare Part D eligible retirees.

Increased Threshold for Claiming Itemized Deduction for Medical Expenses. Increases the income threshold for claiming the itemized deduction for medical expenses from 7.5 to 10 percent. Individuals over 65 would be able to claim the itemized deduction for medical expenses at 7.5 percent of adjusted gross income through 2016.

2014

Establishing Health Insurance Exchanges. Opens health insurance Exchanges in each State to the individual and small group markets. This new venue will enable people to comparison shop for standardized health packages. It facilitates enrollment and administers tax credits so that people of all incomes can obtain affordable coverage.

Promoting Individual Responsibility. Requires most individuals to obtain acceptable health insurance coverage or pay a penalty of \$95 for 2014, \$325 for 2015, \$695 for 2016 (or, up to 2.5 percent of income in 2016). Families will pay half the amount for children, up to a cap of up to a cap of \$2,250 per family. After 2016, dollar amounts are indexed. If affordable coverage is not available to an individual, they will not be penalized.

Promoting Employer Responsibility. Does not include an employer mandate but does impose a fee on larger businesses that do not provide insurance for their employees. The fee applies to employers with 50

or more employees and is calculated based on the number of full-time employees. The reconciliation bill excludes the first 30 employees from the payment calculation. It also changes the amount for firms with more than 50 employees that do not offer coverage to \$2,000 per full-time employee.

Reforming Health Insurance Regulations. Insurers can no longer exclude coverage for treatments based on pre-existing health conditions. It also limits the ability of insurance companies to charge higher rates due to health status, gender, or other factors. Premiums can vary only on age (no more than 3:1), geography, family size, and tobacco use.

Eliminating Annual Coverage Limits. Prohibits insurers from imposing annual limits on the amount of coverage an individual may receive.

Ensuring Choice through a Multi-State Option. Provides a choice of coverage through a multi-State plan, available nationwide, and offered by private insurance carriers under the supervision of the Office of Personnel Management.

Providing Health Care Tax Credits. Makes premium tax credits available through the Exchange to ensure people can obtain affordable coverage. Credits are available for people with incomes above Medicaid eligibility and below 400 percent of poverty who are not eligible for or offered other acceptable coverage. They apply to both premiums and cost-sharing to ensure that no family faces bankruptcy due to medical expenses again.

Ensuring Choice through Free Choice Vouchers. Workers who qualify for an affordability exemption to the individual responsibility policy but do not qualify for tax credits can take their employer contribution and join an Exchange plan.

Increasing Access to Medicaid. Medicaid eligibility will increase to 133 percent of poverty for all non-elderly individuals to ensure that people obtain affordable health care in the most efficient and appropriate manner.

States will receive 100 percent federal funding for the first three years of this coverage expansion.

Small Business Tax Credit. Continues the second phase of the small business tax credit for qualified small employers.

2015

Continuing Innovation and Lower Health Costs. Establishes an Independent Payment Advisory Board to develop and submit proposals to Congress and the private sector aimed at extending the solvency of Medicare, lowering health care costs, improving health outcomes for patients, promoting quality and efficiency, and expanding access to evidence-based care.

2018

High-Cost “Cadillac” Plan Excise Tax. Imposes an excise tax of 40 percent on insurance companies and plan administrators for any health insurance plan that is above the threshold of \$10,200 for self-only coverage and \$27,500 for family plans. The tax would apply to the amount of the premium in excess of the threshold. The threshold would be indexed at CPI-U plus one percentage point for 2019 and CPI for years thereafter. An additional threshold amount of \$1,650 for singles and \$3,450 for families is available for retired individuals over the age of 55 and for plans that cover employees engaged in high risk professions. Employers with higher costs on account of the age or gender demographics of their employees when compared to the age and gender demographics nationally may adjust their thresholds even higher.

Sources

Deloitte. *Prescription for change 'filled': Tax provisions in the Patient Protection and Affordable Care Act.* (www.deloitte.com)

United States. Cong. Senate. Democratic Policy Committee. *The Patient Protection and Affordable Care Act Implementation Timeline.* (<http://dpc.senate.gov/>)

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