Employee Benefits Series

Health Care Reform

BY COMPANY SIZE

An easy-to-understand guide featuring key Heath Care Reform requirements organized by number of employees and effective year

A publication of HR 360, Inc.

Health Care Reform by Company Size

Special Note: This summary provides an overview of key provisions under federal law. The information is subject to change based on new government requirements or amendments to the law. Your company or group health plan may be exempt from certain requirements and/or subject to more stringent requirements under your state's laws. **If you have any questions regarding your obligations with respect to Health Care Reform, please consult with a knowledgeable employment law attorney or your state insurance department.**

Certain requirements under Health Care Reform apply on a plan year basis, meaning that the changes will take effect when a group health plan begins a new plan year. As a result, ***compliance deadlines may vary****.*

AT LEAST 1 EMPLOYEE*	
Effective Beginning in 2014	
90-Day Limitation on Waiting Periods	Prohibits a group health plan from using a waiting period (the time that must pass before coverage for an employee or dependent who is otherwise eligible to enroll under the terms of the plan can become effective) that exceeds 90 days
Coverage of Essential Health Benefits+	Requires non-grandfathered plans offered in the small group market (both inside and outside of Health Insurance Exchanges) to cover a core package of items and services known as "essential health benefits"
Dependent Coverage to Age 26 (Without Exception)	Requires both grandfathered and non-grandfathered group health plans that offer dependent coverage to make coverage available until a child reaches age 26, regardless of other coverage options
Elimination of Annual Limits	Prohibits annual dollar limits on coverage of "essential health benefits"
Guaranteed Availability+	Requires issuers offering non-grandfathered group plans to accept every employer that applies for coverage, with certain exceptions
Limits on Cost-Sharing+	Requires non-grandfathered group plans to ensure that out-of-pocket maximums under the plan for coverage of "essential health benefits" provided in-network do not exceed certain annual limitations
No Preexisting Condition Exclusions	Prohibits group health plans from excluding individuals from coverage or limiting or denying benefits on the basis of preexisting medical conditions (the provision became effective in 2010 for children under 19 years of age)
Nondiscrimination for Wellness Programs	Revises the nondiscrimination rules under HIPAA (the Health Insurance Portability and Accountability Act) for health-contingent wellness programs, which require an individual to satisfy a standard related to a health factor to obtain a reward
Restrictions on Premium Variations+	Requires issuers that offer non-grandfathered health insurance coverage in the small group market to limit any variation in premiums with regard to a particular plan or coverage to age and tobacco use (within limits), family size, and geography
Transitional Reinsurance Program	Requires employers sponsoring certain self-insured plans and issuers of insured health plans to make contributions to support payments to individual market issuers that cover high-cost individuals

* Group health plans that do not cover at least two employees who are current employees (such as plans in which only retirees participate) are generally exempt from the Affordable Care Act's market reform requirements.

\+ If allowed by a particular state and insurer, a small business may be able to renew its current group coverage that does not comply with certain rules under Health Care Reform (including the requirements related to essential health benefits, guaranteed availability, limits on cost-sharing and fair premiums), through policy years beginning on or before October 1, 2016. Businesses that are eligible to continue existing coverage will receive a notice from their insurance companies for each policy year.

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AT LEAST 1 EMPLOYEE (cont'd)	
Effective as of 2013	
Additional Medicare Tax for High Earners	Requires employers to withhold Additional Medicare Tax (at a rate of 0.9%) on wages or compensation paid to an employee in excess of $200,000 in a calendar year
Employer-Provided Notice Regarding Exchange-Marketplaces	Requires employers to provide written notice about a Health Insurance Exchange (Marketplace) to each new employee at the time of hiring, within 14 days of the employee's start date—there is one model notice for employers that offer a health plan, and another model notice for those that do not offer a plan
Health FSA Contribution Limits	Limits the amount of salary reduction contributions to health flexible spending accounts (FSAs) to $2,500 annually, adjusted for inflation (written cafeteria plans must be amended by December 31, 2014 to reflect this change)
Effective as of 2012	
Expanded Coverage of Preventive Services for Women	Requires non-grandfathered group health plans to cover additional women's preventive services such as well-woman visits, breastfeeding support, domestic violence screening, and contraception without cost-sharing
Medical Loss Ratio (MLR) Rebates	Makes employers responsible for distributing rebates, received as a result of insurance companies not meeting specific standards related to how premium dollars are spent, to eligible plan enrollees where appropriate (starting with the 2014 MLR reporting year, an issuer must provide any rebate owed by September 30th; for years prior to 2014, the deadline is August 1st)
PCORI Fees for Employers Sponsoring Self-Insured Plans	For plan years ending on or after October 1, 2012, and before October 1, 2019, requires employers that sponsor certain self-insured plans—including health reimbursement arrangements (HRAs) and health FSAs that do not satisfy the requirements to be treated as excepted benefits—to pay fees to fund the Patient-Centered Outcomes Research Institute (fees are due no later than July 31st of the year following the last day of the plan year)
Summary of Benefits and Coverage (SBC)	Requires group health plans and health insurance issuers to provide a summary of benefits and coverage (SBC) to participants and beneficiaries at several points during the enrollment process and upon request
Effective as of 2011	
Reimbursements for Over-the-Counter Medicines and Drugs	Distributions from HRAs and health FSAs are allowed to reimburse the cost of over-the-counter medicines or drugs only if they are purchased with a prescription, except insulin (a similar rule applies for HSAs and Archer MSAs)
Effective as of 2010	
Break Time for Nursing Mothers	Requires employers to provide reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth, as well as a place to do so (other than a bathroom) that is shielded from view and free from intrusion from coworkers and the public
Coverage of Preventive Services	Requires non-grandfathered group health plans to cover certain preventive services delivered by in-network providers without cost-sharing

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AT LEAST 1 EMPLOYEE (cont'd)	
Effective as of 2010 (cont'd)	
Dependent Coverage to Age 26	Requires group health plans that cover dependents to continue to make the coverage available until a child reaches the age of 26 (until 2014, there is a temporary exception which allows grandfathered group health plans to exclude adult children who are eligible to enroll in an employer-sponsored health plan other than the group health plan of the parent)
Prohibition on Rescission of Coverage	Prohibits insurance companies from rescinding coverage except in cases of fraud or intentional misrepresentation
Reviewing Claims Decisions	Establishes new procedures that non-grandfathered group health plans must follow regarding decisions to deny payment for treatment or services
Effective Date Delayed	
Nondiscrimination Rules for Insured Group Health Plans	Insured group health plans are not required to comply with certain rules prohibiting discrimination in favor of highly compensated individuals, currently applicable to self-insured plans, until after the issuance of regulations or other administrative guidance (cafeteria plan health benefits remain subject to the nondiscrimination requirements of IRC Section 125)
50+ EMPLOYEES ALSO NEED TO COMPLY WITH:	
Effective Beginning in 2015	
"Pay or Play" (Employer Shared Responsibility)	Requires large employers to offer affordable health insurance that provides a minimum level of coverage to full-time employees and their dependents or pay a penalty tax if any full-time employee is certified to receive a premium tax credit for purchasing coverage on an Exchange **Note:** Employers with **100 or more full time employees** (including full-time equivalents) are subject to these requirements starting in 2015, while those with **50 to 99 full-time employees** (including full-time equivalents) do not need to comply until 2016 if they meet certain criteria.
Employer Information Reporting on Health Insurance Coverage	Requires employers subject to "pay or play" to report certain information to the IRS and to their employees regarding compliance with the employer shared responsibility provisions and the health care coverage they have offered
201+ EMPLOYEES ALSO NEED TO COMPLY WITH:	
Effective Date Delayed	
Automatic Enrollment	Employers are not required to comply with the law's automatic enrollment provisions until final regulations are issued and become applicable (these provisions require employers to automatically enroll new full-time employees in one of the employer's health plans, subject to any waiting period authorized by law, and continue the enrollment of current employees in a health benefits plan offered through the employer)
250+ EMPLOYEES ALSO NEED TO COMPLY WITH:	
Effective as of 2012	
Form W-2 Reporting of Employer-Sponsored Health Coverage	Requires employers who must file 250 or more Forms W-2 for the preceding calendar year and who sponsor a group health plan to report the cost of coverage provided to each employee annually on the Form W-2 (provided to employees in January), with certain exceptions

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OTHER PROVISIONS AFFECTING SMALL EMPLOYERS:	
Effective Beginning in 2014	
Small Business Health Options Program (SHOP)	Exchanges are required to operate a SHOP as an option for qualified small employers to purchase employee health coverage. Although businesses with up to 100 employees will generally be eligible to participate in SHOPs, states may limit participation to businesses with up to 50 employees until 2016. The federal government will operate the program in states that do not elect to establish an Exchange. (For 2014, the federally-facilitated SHOP will be open to employers with 50 or fewer full-time equivalent employees.) Note: Online enrollment for small employers who wish to purchase employee coverage through the **federally-facilitated** SHOP Marketplace is delayed until November 2014. SHOPs are not required to provide employers the option of offering employees a choice of qualified health plans at a single coverage level **until plan years beginning on or after January 1, 2015**, and SHOPs located in states that qualify for transition relief are not required to provide this option until 2016. Until online functionality is available, small business owners who wish to purchase coverage through the federally-facilitated SHOP Marketplace may **work with an agent or broker to select and enroll employees in a qualified plan**. (Employers located in a state operating its own SHOP must follow that state's application and enrollment process.)
Effective as of 2010	
Small Business Health Care Tax Credit	Eligible small businesses (generally those with **no more than 25 full-time equivalent employees** with average annual wages that do not exceed $50,000, as adjusted for inflation) that pay at least half of employee health insurance premiums may receive a tax credit. For tax years 2010–2013, the maximum credit is 35% of premiums paid by eligible small businesses**. For up to two years starting in 2014, the maximum credit increases to 50% of premiums paid by eligible small businesses; however, the credit will only be available if coverage is obtained through a SHOP Exchange (Marketplace).**

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Click here for **free trial access to our entire attorney-reviewed Health Care Reform site, featuring:**

- Health Care Reform Requirements by Year
- "Pay or Play" Guidelines
- Model Health Care Reform Required Notices
- Small Business Health Care Tax Credit

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