

Patient Protection and Affordable Care Act©

(Health Care Reform Developments)

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The Patient Protection and Affordable Care Act (“PPACA”), enacted March 23, 2010, will affect employers and human resource professionals throughout the United States. While the effective dates of many provisions are several years down the road, some significant reforms are effective almost immediately. Even provisions that do not go into effect in the immediate future require planning. Most Practices are not comfortable with their knowledge about the law, they do not have an understanding of the phased in timeline for the various provisions and they are worrisome regarding the potential implementation costs.

As you begin your benefit year January 1, 2011 or are completing your Benefits Open Enrollment for 2011, keep in mind the definition of a “grandfathered” health plan and assessing the potential advantages/disadvantages of maintaining “grandfathered” health plan protections. A grandfathered plan is one in which at least one employee was enrolled on March 23, 2010 and it may be exempt from some of the new qualified health mandates if it meets specific criteria as outlined in the PPACA. A Practice sponsoring a “grandfathered” health plan must include in the plan enrollment materials a clear statement indicating that the health plan is “grandfathered” and provide contact information for questions.

Here are some highlights from the PPACA regulations that are effective now and in 2011 that you should investigate to determine how these reforms may affect your practice:

- **All new insurance plans must offer free preventative care.** Advocates hope this will encourage employees to get routine screening done, which will actually decrease health care costs in the long run.
 - A “grandfathered” health plan is not required to implement this provision
 - If your plan is through a network, these benefits are only required through an in-network provider. Out-of-network providers may provide benefits with a fee.
- **Over-the-Counter Medicines will no longer be reimbursable in 2011 under Health Flexible Spending Accounts (“FSA”) or from Health Savings Account (“HSA”) without a doctor’s prescription, except for insulin.**
- **Adult children up to age 26 may be kept on parent’s employer-provided group plans.** Previously, plans could remove children as early as 19, but could be extended

to a later age if, for example, the child was a full-time student. This usually applied to children living at home who were declared as dependents on the parent's tax returns.

- Coverage begins with the new *plan* year and not when the provision takes effect.
- Married children and financially independent children are also eligible, but their spouses are not.
- Under a “grandfathered” plan, adult children will not be coverable if they have access to their own employer-provided insurance until 2014.
- **Uncapping lifetime dollar limitations on essential health benefits begins after September 2010 (or with the new plan year).** Previously, depending upon health plan designs, lifetime limits were set and the individual was responsible for any costs exceeding those limits. The new law eliminates lifetime limits and will phase out annual limits gradually until 2014.
 - Plans can still place annual and lifetime dollar limits on “non-essential” services.
 - These limitations will not apply to “grandfathered” plans. Some plans may obtain waivers if compliance meant a significant decrease in your benefits coverage.
- **Health plans cannot limit or deny benefits or coverage for children under 19 years old due to pre-existing conditions developed before applying for coverage.**
 - Unfortunately, this will not apply to “grandfathered” plans, but the protections under this provision will be extended to Americans of all ages in 2014.
- **No policy rescission (retroactive terminations from the plan) except for fraud or intentional misrepresentation.**
- **W-2 reporting of the value of employer-provided health coverage.** The IRS has postponed its mandate requiring employers to report the value of employer-provided health coverage on W-2 forms until 2012, allowing extra time to implement changes to meet compliance requirements. The IRS also intends to publish materials to further describe the requirements to help employers understand the changes. There is confusion regarding the reportable items: medical coverage, some health flexible spending accounts, health reimbursement accounts, Medicare supplemental insurance, some employee assistance plans and how the value is calculated. The IRS has released a draft form (http://www.irs.gov/pub/irs-utl/draft_w-2.pdf) that includes the codes that will be used to report the cost of coverage under an employer-sponsored group health plan. To best prepare your practice, ensure that your payroll department is aware of the upcoming change and that they will need to report those figures on future W-2 forms.

Also, keep in mind that the size of one's Practice may affect whether or not some of the PPACA provisions are applicable such as:

- Employers with fewer than 50 full-time employees:
 - Exempt from Nursing Mother Break and Accommodations Provisions.
- Employers with up to 50 employees (or up to 100 employees at the discretion of the state) will have access to state-based Small /business Health Options Program (SHOP) Exchanges starting in 2014.
- Employers with fewer than 100 full-time employees:
 - Grants will be available for workplace wellness programs for employers with fewer than 100 employees working 25 or more hours per week.

Included in the Patient Protection and Affordable Care Act is a Small Business Health Care Tax Credit, designed to encourage small businesses to offer health insurance coverage to their employees for the first time or to maintain coverage they have. Consult with your accountant and tax advisor to see if you qualify under the IRS guidelines (www.irs.gov).

If you would like to brush up on health care reform yourself and how it may pertain to you or your practice, visit www.healthcare.gov for more information.