Healthcare Reform 2010

This notice addresses the new law signed by the President on Tuesday, 3/23 as well as the Reconciliation Bill signed last night. Some of the actual implementation timelines and exact rules remain unclear, but we will keep you informed things progress. We have tried to summarize, instead of going into excruciating detail, those items that will not take place for three or more years, as there could certainly be modifications to those items prior to their implementation dates. Please let us know if we can answer any questions.

What does this mean to me as an employer in 2010?

If you have less than 25 Full-Time Equivalent Employees:

1. If you have less than 25 full-time equivalent employees and your average wage is less than $50,000, you may be eligible for a maximum tax credit retroactive to 1/1/10, of up to 50% of your premiums for up to 2 years, if you contribute at least 50% of the total premium cost.
2. If you have 10 or less full-time equivalent employees and your average employee wage is less than $25,000, you will be eligible for the maximum credit.

All fully-insured medical plans, regardless of size:

1. You will be prohibited from varying eligibility rules for full-time employees (FTEs) based on salary, that in effect discriminates in favor of higher wage employees.
2. Lifetime limits on group and individual plans will be prohibited. (This is unclear as to the exact implementation date. It likely will be October 1, 2010 or the anniversary date of your group plan that occurs on or after October 1, 2010. This uncertainty applies to items 3 through 10 as well.)
3. Annual limits will be allowed through 2014 only on Health and Human Services (HHS)-defined non-essential benefits (not defined as of yet). <u>This provision applies to self-funded plans as well.</u>
4. All group and individual plans will have to cover dependents, married or not, up to their 26th birthday unless that dependent is eligible for their own employer-sponsored plan, and the group health plan tax exclusion is extended to those dependents. <u>This provision applies to self-funded plans as well</u>.

5. Rescission of health coverage will be prohibited except for fraud or intentional misrepresentation. <u>This provision applies to self-funded plans as well.</u>
6. Emergency services will be covered as in-network regardless of the provider.
7. Enrollees may designate any in-network doctor as their primary care physician.
8. Coverage for specific preventive services (which are not yet identified) on a first dollar basis (no deductible, no co-pay and no co-insurance).
9. Secretary of HHS will have new authority to monitor health insurance carrier premium increases beginning to prevent unreasonable increases and publicly disclose such information.
10. Minimum loss ratio (MLR) requirements will be established for insurers in all markets. (Whether it applies to self-funded plans is uncertain). For a large group (101 employees or more) it will be 85%, and for a small group 80%. In general, the MLR is the percentage of premiums collected that must be paid out in claims. The specifics of what can be included in the "claims" category is unclear at this time.

<u>Additionally</u>:

1. A high-risk pool will be created for people who cannot obtain current individual coverage due to pre-existing coverage. Over thirty states already have such a pool. It is unclear how the two plans will coordinate. This pool will expire on 12/31/2013 when Exchanges become operational and pre-existing condition limitations are totally removed.
2. A 10% excise tax will be imposed on indoor tanning services.

What does this mean to me as an employer in 2011?

<u>All fully-insured medical plans, regardless of size:</u>

1. All employers must include on the W-2s issued for the 2011 tax year, the aggregate cost of employer-sponsored health benefits.
2. The penalty tax on distributions from a Health Savings Account (HSA) that are not used for qualified medical expenses increases from 10% to 20%.
3. Over-the-counter drugs will no longer be reimbursable under HSAs, FSAs, HRAs or Archer MSAs, unless prescribed by a doctor, with the exception of insulin.

4. Small employers will be allowed to adopt new “simple cafeteria plans”.
5. A federal grant program for small employers providing wellness programs to their employees takes effect.

Additionally:

1. A new public long-term care program is created and requires all employers to enroll employees, unless the employee elects to opt out.

What does this mean to me as an employer in 2012?

All group plans, fully-insured or self-insured:

1. Will have to provide a summary of benefits and a coverage explanation that meets specified criteria to all enrollees including:
    a. when they apply for coverage,
    b. when they enroll or reenroll in coverage,
    c. when the policy is delivered and
    d. when any material modification is made to the terms of their coverage.
2. The summary and explanation can be provided electronically or in written form, and there is a $1,000 per enrollee fine for willful failure to provide the information.

What does this mean to me as an employer in 2013?

All group plans, fully-insured or self-insured:

1. An additional 0.9% Medicare Hospital Insurance tax on self-employed individuals and employees with earnings and wages during the year of $200,000 for individuals and $250,000 for joint filers.
2. Self-employed individuals are not permitted to deduct any portion of the additional tax.

Additionally:

1. A new 3.8% Medicare contribution on certain unearned income from individuals with Adjusted Gross Income (AGI) over $200,000 for individuals or $250,000 for joint filers.
2. The threshold for the itemized deduction for unreimbursed medical expenses would be increased from 7.5% of AGI to 10% of AGI for regular tax purposes.
3. New annual fees will be imposed on medical device manufacturers and importers. The tax does not apply to eyeglasses, contact lenses, hearing aids and any other device deemed by the Secretary of HHS to be of the type available for regular retail purposes.

What does this mean to me as an employer in 2014?

All group plans, fully-insured or self-insured:

1. Coverage must be offered on a guarantee issue basis in all markets and be guaranteed renewable.
2. Exclusions based on pre-existing conditions would be prohibited in all markets.
3. Full prohibition on any annual limits or lifetime limits in all group and or individual plans.
4. All individual health insurance policies and all fully-insured group policies with 100 lives or under (and larger groups purchasing their coverage through the exchanges) must abide by strict modified community rating standards with premium variations only allowed for age (3:1), tobacco usage (1.5:1), family composition and geographic regions to be defined by the states and experience rating would be prohibited.
5. Wellness discounts are allowed for group plans under specific circumstances.
6. Redefines small group coverage as 1-100 employees.
7. Grandfathering of plans (individuals or employer groups, that wish to keep their current policy) would only apply if the **only** plan changes made were to add or delete new employees and new dependents.

8. Employers don't have to offer health insurance coverage, **but** if they employ more than 50 FTEs, they must pay a fine per employee per year for each employee they **don't** cover. The coverage can't be just any coverage and must meet the "essential benefits" requirements in order to be compliant.
9. Catastrophic-only policies will be allowed for those 30 and younger.
10. **For the construction industry only**, the responsibility requirement to provide affordable coverage applies to employers of more than 5 people with annual payrolls of more than $250,000.
11. An employer with more than 50 FTEs is required to have no longer than a 90 day waiting period before an employee can enroll in health care coverage. If their waiting period is longer than that, they will pay a $600 fine for each employee subject to the longer waiting period.
12. FSA contributions for medical expenses are limited to $2,500 per year with the cap indexed for inflation.
13. Employers of 200 or more employees will be required to auto-enroll all new employees into any available employer-sponsored health insurance plan.
14. All health plans must provide coverage documentation to both covered individuals and the IRS.

Additionally:

1. All American citizens and legal residents will be required to purchase qualified health insurance coverage. Some exceptions apply and subsidies will be available for certain situations.
2. Penalties will apply for those who do not comply
3. Each state will be required to create an Exchange to facilitate the sale of qualified benefit plans to individuals and small employers

What does this mean to me as an employer in 2018?

For all fully-insured or self-insured medical plans:

1. 40% excise tax on "Cadillac plans" with values exceeding certain dollar amounts. Certain high-cost states would receive transition relief.