Health Care Reform Timeline

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Legislative Brief

On March 23, 2010, President Obama signed into law the health care reform bill, the Patient Protection and Affordable Care Act. This legislation, along with the Health Care and Education Reconciliation Act of 2010, makes sweeping changes to the U.S. health care system. These changes will be implemented over the next several years.

2010

Expanded Insurance Coverage

The health care reform law contains some provisions designed to provide improvements in access to health care coverage in 2010.

- **Extended Coverage for Young Adults.** Group health plans and health insurance issuers offering group or individual health insurance coverage that provide dependent coverage of children must make coverage available for adult children up to age 26. There is no requirement to cover the child or spouse of a dependent child. This requirement will apply to grandfathered and new plans. However, grandfathered plans need not cover adult children who are eligible for other employer-sponsored coverage, such as coverage through their own employer until 2014.

  The Reconciliation Act added a new tax provision related to health insurance coverage for these adult children. Effective March 30, 2010, amounts spent on medical care for an eligible adult child can be excluded from taxable income.

  Note: a "grandfathered plan" is one in which an individual was enrolled on March 23, 2010, and to which there is no change to existing coverage. Many requirements of the new law do not apply to grandfathered plans and nothing in the law requires individuals terminate coverage in which they were enrolled when the law was passed. A plan can still be a grandfathered plan even if family members or new employees are allowed to join.
- **Access to Insurance for Uninsured Individuals with Pre-Existing Conditions.** The health care reform bill provides for the establishment of a temporary high risk health insurance pool program to provide health insurance coverage for certain uninsured individuals with pre-existing conditions. The program will end when the health insurance exchanges, set to be established in 2014, are operational.
- **Identifying Affordable Coverage.** As required, the Secretary of Health and Human Services has established an Internet website through which residents of any state may identify affordable health insurance coverage options in that state. The website also includes information for small businesses about available coverage options, reinsurance for early retirees, small business tax credits, and other information of interest to small businesses. So-called "mini-med" or limited-benefit plans will be precluded from listing their policies on this website.
- **Reinsurance for Covering Early Retirees.** The new law requires the establishment of a temporary reinsurance program to provide reimbursement to participating employment-based plans for a portion of the cost of providing health insurance coverage to early retirees and their spouses, surviving spouses and dependents. This program will end on January 1, 2014.

Health Insurance Reform

The new law also imposes requirements on health insurance issuers to reform certain insurance practices and improve the coverage available.

- **Eliminating Pre-Existing Condition Exclusions for Children.** Group health plans and health insurance issuers may not impose pre-existing condition exclusions on coverage for children under age 19. This provision will apply to all employer plans and new plans in the individual market. This provision will also apply to adults in 2014.

- **Coverage of Preventive Health Services.** Group health plans and health insurance issuers offering group or individual health insurance coverage must provide coverage for preventive services. These plans also may not impose cost sharing requirements for preventive services.
- **Prohibiting Rescissions.** The health care reform law is designed to prohibit abusive rescissions of coverage by insurance companies when an individual gets sick as a way of avoiding covering the cost of the individual's health care needs. Group health plans and health insurance issuers offering group or individual insurance coverage may not rescind coverage once the enrollee is covered, except in cases of fraud or intentional misrepresentation. Plan coverage may not be cancelled without prior notice to the enrollee. This provision applies to all new and existing plans.
- **Limits on Lifetime and Annual Limits.** In general, group health plans and health insurance issuers offering group or individual health insurance coverage may not establish lifetime limits on the dollar value of benefits for any participant or beneficiary or impose unreasonable annual limits on the dollar value of benefits for any participant or beneficiary. This requirement applies to all plans. Annual limits will also be prohibited beginning in 2014.

Health Plan Administration

In addition to any administrative changes required by the coverage improvements described above, health plans will be subject to increased administrative duties under health care reform.

- **Improved Appeals Process.** Group health plans and health insurance issuers offering group or individual health insurance coverage must implement an effective appeals process for appeals of coverage determinations and claims. At a minimum, plans and issuers must:
    - have an internal claims process in effect;
    - provide notice to enrollees, in a culturally and linguistically appropriate manner, of available internal and external appeals processes, and the availability of any applicable office of health insurance consumer assistance or ombudsman to assist them with the appeals processes; and
    - allow enrollees to review their files, to present evidence and testimony as part of the appeals process, and to receive continued coverage pending the outcome of the appeals process.

  The internal claims process must initially incorporate the current claims procedure regulations issued by the Department of Labor in 2001. Plans and issuers must also implement an external review process that meets applicable state or federal requirements.
- **Nondiscrimination Rules for Fully Insured Plans.** Fully insured group health plans will have to satisfy nondiscrimination rules regarding eligibility to participate in the plan and eligibility for benefits. These rules prohibit discrimination in favor of highly compensated individuals. This section does not apply to grandfathered plans. This provision was set to take effect for plan years beginning on or after September 23, 2010. However, it has been **delayed indefinitely** pending the issuance of regulations. The regulations will specify the new effective date.

Medicare/Medicaid

The health care reform law will further affect individuals by making certain changes to Medicare and Medicaid.

- **Rebates for the Medicare Part D "Donut Hole."** Currently, there is a coverage gap, or "donut hole," in most Medicare Part D plans. Once the plan and participant have paid $2,830 in total drug costs, the participant is in the coverage gap. The coverage gap ends when the participant has spent $4,550 (in 2010) out of pocket for drug costs in a calendar year. Health care reform provides a $250 rebate check for all Medicare Part D enrollees who enter the donut hole. Beginning in 2011, a 50 percent discount on brand-name drugs will be instituted and generic drug coverage will be provided in the donut hole. The donut hole gap will be filled by 2020.
- **Medicaid Flexibility for States.** States are given a new option under the health care reform law to cover additional individuals under Medicaid. States will be able to cover parents and childless adults up to 133 percent of the Federal Poverty Level (FPL).

Fees and Taxes

With a total estimated cost of over $900 billion dollars, the reform of the nation's health care system comes with additional costs and fees. These fees will also be implemented over the next several years. However, health care reform also includes some subsidies, in the form of tax credits, to help individuals and businesses pay for coverage.

- **Small Business Tax Credit.** The first phase of the small business tax credit for qualified small employers begins in 2010. These employers can receive a credit for contributions to purchase health insurance for employees. The credit is up to 35 percent of the employer's contribution to provide health insurance for employees. There is also up to a 25 percent credit for small nonprofit organizations. When health insurance exchanges are operational, tax credits will increase, up to 50 percent of premiums.
- **Indoor Tanning Services Tax**. One additional tax imposed by the health care reform law is a 10 percent tax on amounts paid for indoor sun tanning services.

2011

Expanded Insurance Coverage

- **Voluntary Long-Term Care Insurance Options.** The health care reform law creates a long-term care insurance program for adults who become disabled. Participation will be voluntary and the program is to be funded by voluntary payroll deductions to provide benefits to adults who become disabled. Although the program is set to be effective January 1, 2011, significant portions are not required to be established until 2012.

Health Plan Administration

- **Improving Medical Loss Ratios.** Health insurance issuers offering group or individual health insurance coverage (including grandfathered health plans) must annually report on the share of premium dollars spent on health care and provide consumer rebates for excessive medical loss ratios.
- **Reporting Health Coverage Costs on Form W-2.** Employers will be required to disclose the value of the health coverage provided by the employer to each employee on the employee's annual Form W-2. Note that this requirement is effective, but optional, for the 2011 tax year and will be mandatory for later years.
- **Standardizing the Definition of Qualified Medical Expenses.** The health care reform law conforms the definition of "qualified medical expenses" for HSAs, FSAs and HRAs to the definition used for the itemized tax deduction. Amounts paid for over-the-counter medicine with a prescription still qualify as medical expenses. Costs for over-the-counter medications obtained without a prescription would not qualify.
- **Cateteria Plan Changes.** The new law creates a Simple Cafeteria Plan to provide a vehicle through which small businesses can provide tax-free benefits to their employees. This plan is designed to 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.

Medicare/Medicaid

- **Medicare Part D Discounts.** In order to make prescription drug coverage more affordable for Medicare enrollees, the new law will provide a 50 percent discount on all brand-name drugs and biologics in the "donut hole." It also begins phasing in additional discounts on brand-name and generic drugs to completely fill the donut hole by 2020 for all Part D enrollees.
- **Additional Preventive Health Coverage.** The new law provides a free, annual wellness visit and personalized prevention plan services for Medicare beneficiaries and eliminates cost-sharing for preventive services beginning in 2011.

Fees and Taxes

- **Increased Tax on Withdrawals from HSAs and Archer MSAs.** The health care reform law will increase the additional tax on 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.

2012

Health Plan Administration

- **Uniform Summary of Benefits and Coverage.** All new and grandfathered health plans will be required to provide a uniform summary of the plan's benefits and coverage to participants. HHS is required to develop standards for the summary by March 2011, and plans will have to start using it by March 2012. The summary will have to be written in easily understood language and will be limited to 4 pages.

2013

Health Plan Administration

- **Administrative Simplification.** Beginning in 2013, health plans must adopt and implement uniform standards and business rules for the electronic exchange of health information to reduce paperwork and administrative burdens and costs.
- **Limiting Health Flexible Savings Account Contributions.** The new health care law will limit the amount of contributions to health FSAs to $2,500 per year, indexed by Consumer Price Index (CPI) for subsequent years.

Fees and Taxes

- **Eliminating Deduction for Medicare Part D Subsidy.** Currently, employers that maintain prescription drug plans for their Medicare Part D eligible retirees are entitled to a tax deduction. This deduction will be eliminated in 2013.
- **Increased Threshold for Medical Expense Deductions.** The health care reform law increases the income threshold for claiming the itemized deduction for medical expenses from 7.5 percent of income to 10 percent. However, individuals over 65 would be able to claim the itemized deduction for medical expenses at 7.5 percent of adjusted gross income through 2016.
- **Additional Hospital Insurance Tax for High Wage Workers.** The new law increases the hospital insurance tax rate by 0.9 percentage points on wages over $200,000 for an individual ($250,000 for married couples filing jointly). The tax is also expanded to include a 3.8 percent tax on net investment income in the case of taxpayers earning over $200,000 ($250,000 for joint returns).
- **Medical Device Excise Tax.** The law also establishes a 2.3 percent excise tax on the first sale for use of a medical device. Eye glasses, contact lenses, hearing aids, and any device of a type that is generally purchased by the public at retail for individual use are excepted from the tax.

2014

Coverage Mandates

- **Individual Coverage Mandates.** The health care reform legislation requires most individuals to obtain acceptable health insurance coverage or pay a penalty, beginning in 2014. The penalty will start at $95 per person for 2014 and increase each year. The penalty amount increases to $325 in 2015 and to $695 (or up to 2.5 percent of income) in 2016, up to a cap of the national average bronze plan premium. After 2016, dollar amounts are indexed. Families will pay half the penalty amount for children, up to a cap of $2,250 per family. Individuals may be eligible for an exemption from the penalty if they cannot obtain affordable coverage.
- **Employer Coverage Mandates.** Employers with 50 or more employees that do not offer coverage to their employees will be subject to penalties if any employee receives a government

subsidy for health coverage. The penalty amount is up to $2,000 annually for each full-time employee, excluding the first 30 employees. Employers who offer coverage, but whose employees receive tax credits, will be subject to a fine of $3,000 for each worker receiving a tax credit, up to an aggregate cap of $2,000 per full-time employee. Employers will be required to report to the federal government on health coverage they provide.

Health Insurance Exchanges
The health care reform legislation provides for **health insurance exchanges** to be established in each state in 2014. Individuals and small employers will be able to shop for insurance through the exchanges. Small employers are those with no more than 100 employees. If a small employer later grows above 100 employees, it may still be treated as a small employer. Large employers with over 100 employees are to be allowed into the exchanges in 2017. Workers who qualify for an affordability exemption to the coverage mandate, but do not qualify for tax credits, can use their employer contribution to join an exchange plan.

Health Insurance Reform
Additional **health insurance reform** measures will be implemented beginning in 2014. Specifically, health insurance companies will not be permitted to:

- Refuse to sell or renew policies due to an individual's health status;
- Exclude coverage for treatments based on pre-existing health conditions;
- Charge higher rates due to heath status, gender or other factors (premiums will be able to vary based only on age (no more than 3:1), geography, family size, and tobacco use);
- Impose annual limits on the amount of coverage an individual may receive; or
- Drop coverage because an individual chooses to participate in a clinical trial for cancer or other life-threatening diseases or deny coverage for routine care that they would otherwise provide just because an individual is enrolled in such a clinical trial.

Fees and Taxes

- **Individual Health Care Tax Credits.** The new law makes premium tax credits available through the exchanges to ensure people can obtain affordable coverage. Credits are available for people with incomes above Medicaid eligibility and below 400 percent of poverty level who are not eligible for or offered other acceptable coverage. The credits apply to both premiums and cost-sharing.
- **Small Business Tax Credit.** The second phase of the small business tax credit for qualified small employers will be implemented in 2014. These employers can receive a credit for contributions to purchase health insurance for employees, up to 50 percent of premiums.
- **Health Insurance Provider Fee.** The health care reform law imposes an annual, non-deductible fee on the health insurance sector, allocated across the industry according to market share. The fee does not apply to companies whose net premiums written are $25 million or less.

2018

High-Cost Plan Excise Tax
A 40 percent excise tax is to be imposed on the excess benefit of high cost employer-sponsored health insurance (also known as a "Cadillac tax"). The annual limit for purposes of calculating the excess benefits is $10,200 for individuals and $27,500 for other than individual coverage. Responsibility for the tax is on the "coverage provider" which can be the insurer, the employer, or a third-party administrator. There are a number of exceptions and special rules for high coverage cost states and different job classifications.

This CUNA Mutual Group Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

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