HUTCHINSON TRAYLOR

Health Care Reform Acts: Summary Sheet

The Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 signed into law respectively on March 23 and March 30, 2010, lead to important health care delivery changes impacting employers nationwide. It is crucial for all employers to understand how their businesses may need to respond. The following highlights some key provisions that affect employers and employer-sponsored health plans.

Individual Mandate. Starting in **2014**, individuals will be subject to a penalty if they do not have "minimum essential coverage" (i.e. being covered by an employer-sponsored health plan, an individual health plan, etc.). The penalty starts to phase in gradually in 2014, phases in completely in 2016, and then is adjusted for cost of living changes for 2017 and beyond. Exceptions to the penalty include those without health coverage for fewer than three months.

Share of Cost Assistance. Premium assistance in cost-sharing and tax credits will be available for certain low-income individuals receiving qualified health coverage through a state-established Health Benefit Exchange.

Employer Mandate. While not required to provide employees with health insurance, an employer with an average of at least 50 full-time employees (working at least a weekly average of 30 hours) may be subject to penalties for not providing any employee health coverage or for providing coverage considered as too expensive.

Small Business Health Care Tax Credit. Effective **January 1, 2010**, employers (with 25 or fewer full-time employees averaging $50,000 or less in wages may be generally eligible for a tax credit of up to 35% of the employer's premium costs of providing employee health coverage as long as the employer contribution is at least 50% of the total premium costs. Effective **January 1, 2014**, the tax credit increases to 50%.

Notice of Coverage Options. By **March 1, 2013**, employers must notify newly-hired and current employees (in writing) about:

1. Available healthcare exchanges, the provided services, and contact information;
2. Eligibility for a share of cost premium assistance and a premium tax credit if the employer pays less than 60% of the benefits costs and if the employee buys an exchange-based health insurance; and
3. Loss of the employer's contribution to the employer's healthcare plan and that the amount can be excluded from the employee's federal income tax liability, if the employee buys an exchange-based health insurance.

Automatic Enrollment. Effective **January 1, 2014**, employers (with more than 200 full-time employees) offering health plans must automatically enroll new full-time employees and allow them to opt out.

Free Choice Vouchers. Effective **January 1, 2014**, an employer paying a portion of the coverage premiums must provide "free choice vouchers" to certain low-income employees opting out of the employer's plan.

Penalty for No Health Coverage. Effective **January 1, 2014**, an employer (with 50 or more full-time employees) that does not provide minimum essential coverage and has at least one employee receiving a premium assistance share of cost or premium tax credit must pay an annual penalty for each full-time employee (not including the first 30 full-time employees).

Penalty for Costly Health Coverage. Effective **January 1, 2014**, an employer (with 50 or more full-time employees) that provide minimum essential coverage and has at least one employee receiving a premium assistance share of cost or premium tax credit must pay an annual penalty equal to the lesser of:

1. $3,000 for each employee who receives a share of cost assistance or tax credit, or
2. $2,000 per full-time employee.

"Cadillac Plan" Tax. Effective **January 1, 2018**, insurers of fully insured plans and plan administrators of self-insured plans will be subject to a non-deductible 40% excise tax.

Breastfeeding Breaks. A provision amends the federal Fair Labor Standards Act (FLSA) requiring an employer to provide an employee (up to one year after the birth of her child) reasonable break time when the employee has a need to express breast milk for her nursing child. If able to demonstrate undue hardship, an employer with fewer than 50 employees may not be subject to these requirements.

Reporting Requirements

Cost of Employer-Sponsored Health Coverage. Effective **January 1, 2011**, an employer must report the aggregate value of medical, dental, vision, and supplemental insurance benefits coverage on the Form W-2.

Annual Reports. Effective for **2014**, employers (with 50 or more full-time employees) must file an information return in a form to be established by the Secretary of the Treasury containing:

1. Employer's name and employer identification number;
2. Attestation whether or not the employer allows full-time employees (and their dependents) to enroll in minimum essential coverage under an eligible employer-sponsored plan,
3. Number of full-time employees for each month during the calendar year; and
4. Name, address, tax identification number, and the months of health plan coverage for each full-time employee during the calendar year.

Note: The employer must provide employees a written report including the name and contact information for the person filing the return and the information required to be shown on the return.

Uniform Coverage Explanation. By **March 23, 2012**, group health plans and self-insured health plans sponsors must provide participants a uniform summary of benefits and coverage. In four pages, the uniform summary must describe in a "culturally and linguistically appropriate manner" the health plan benefits offered, coverage limitations, share of cost provisions, and any restrictions on continuation of coverage.

Health Plan Changes

Dependent Coverage Extension. Effective for plan years beginning on or after **September 23, 2010**, group health insurance plans and self-insured plans offering dependent coverage must allow such coverage to continue for an adult child up to age 26 (or to the end of the plan year during which the child turns age 26).

No Lifetime or Annual Limits. Effective for plan years beginning on or after **September 23, 2010**, a group health plan or self-insured plan may not impose a lifetime dollar limit on "essential health benefits" (e.g. emergency services, hospitalization, maternity and newborn care, etc.) and must phase out any annual limits on such coverage by 2014.

No Pre-existing Exclusions. Effective for plan years beginning on or after **September 23, 2010**, a group health plan or self-insured health plan may not impose pre-existing condition exclusions for children under 19 and must completely eliminate such exclusions for participants of any age by January 1, 2014.

Prohibited Rescissions. Effective for plan years beginning on or after **September 23, 2010**, a group health plan or self-insured plan may not rescind or cancel health coverage once the individual has become a covered participant.

No Over-the-Counter Medications Reimbursement. Effective **January 1, 2011**, no over-the-counter medication reimbursement from health savings, flexible spending, or health reimbursement accounts can be made.

Health FSAs Limits. Effective **January 1, 2013**, annual salary reduction contributions to health flexible spending accounts will be limited to $2,500, indexed for inflation.

Limited Waiting Periods. Effective **January 1, 2014**, a group health plan or self-insured plan waiting period must not exceed 90 days.

At Hutchinson Traylor we are thoroughly reviewing the current health plans of our clients, identifying any necessary changes, and developing action plans to ensure compliance.

For questions or assistance please contact Megan Penn our Director of Employee Benefits at megan.penn@hutchinsontraylor.com or 706-298-2585.