



## Health Care Reform – Update

As we all know by now, on March 21, 2010, the U.S. House of Representatives passed major health care reform legislation: the Patient Protection and Affordable Care Act. The legislation was previously passed by the U.S. Senate in December 2009 and is set to be signed by President Obama as soon as today.

As is typically the case, the finer details still need to be worked out on many of the provisions mentioned below, particularly the state Exchanges. The goal of this brief is to provide you with the high level details of the provisions we found to be of the most relevant information.

**Employer Mandate** - The bill requires employers to inform new employees about their coverage options, including the existence of exchanges and that, if the employer's plan covers less than 60 percent of the cost of benefits, the employee may be entitled to tax credits and cost-sharing assistance if the employee purchases a plan through an exchange. Starting in 2014, the bill requires an employer with more than 50 full-time employees that does not offer coverage and has at least one full-time employee receiving the premium assistance tax credit to make a payment of \$2,000 per full-time employee. An employer with more than 50 employees that does offer coverage but has at least one full-time employee receiving the premium assistance tax credit will pay the lesser of \$3,000 for each of those employees receiving a tax credit or \$2,000 for each of their full-time employees total.

**Individual Insurance Mandate** - The bill imposes a penalty tax on individuals not maintaining minimum essential coverage, beginning in 2014. The penalty is generally the greater of a flat-dollar amount (\$95 for 2014, \$325 for 2015, and \$695 - indexed for inflation in 2016) or a percentage (1.0 percent for 2014, 2.0 percent for 2015, and 2.5 percent for 2016 and after) of the taxpayer's household income. The penalty tax would not apply to those with incomes under the tax return filing threshold for the year. Various exceptions would apply.

**Coverage Subsidies** - The bill includes a refundable tax credit to help with premium payments for those with incomes up to 400 percent of the federal poverty level and who are enrolled through exchanges. The bill also includes reduced out-of-pocket expenses for such persons.

**Health Benefit Exchanges** - In 2014, state Exchanges will be established for small businesses and individuals to shop for health insurance. Larger businesses will be able purchase coverage in the Exchanges beginning in 2017. If an employee purchases coverage through an Exchange and receives a federal subsidy, the employer may be penalized. Employers may be required to provide vouchers to certain employees for whom the employer coverage is considered unaffordable, to help pay for Exchange coverage.

**Changes to FSAs, HRAs and HSAs** - The bill limits employee contributions to flexible spending accounts (FSAs) to \$2,500 and prohibits non-prescription drugs from being reimbursed under health flexible spending arrangements, health reimbursement arrangements, health savings accounts, and Archer Medical Savings. The bill also increases the additional tax on distributions from health savings accounts and Archer MSAs not used for qualified medical expenses to 20 percent starting in 2011.

**Tax on "Cadillac Health Plans"** - A 40 percent excise tax will be imposed on the health benefits provided by an employer for the value of the benefit over a \$8,500 for single coverage and \$23,000 for a family (amounts indexed for inflation) starting in 2018. For those retirees aged over 55, the thresholds increase to \$11,850 and \$30,950 (amounts indexed for inflation).

Despite all the discussion about the long-term consequences of this bill's passage, it is our opinion that most Vermont employers will not experience any short-term impact on their plans, nor will they see significant relief from rising health care costs. Unfortunately, the bill does not overtly address cost controls that most employers had hoped for. That said, we will continue to provide you with analysis of the key provisions and consider what each issue means to you and your employees.