

Health Reform Update Redux – The Short Term Impacts

Health care reform enacted into law last week means short-term and long-term changes for employers. Most of the biggest changes for employers begin in 2014, but some do take effect immediately. The President signed the “budget reconciliation bill” yesterday which brings finality to the somewhat non-traditional process of getting the law passed. Now that we have some finality, our guidance is for employers to focus most closely on the provisions that take effect over the next 18 months. The following is a timeline listing those provisions that take effect within the next 18 months.

Effective Immediately

Medicare prescription drug “donut hole” rebates - Beginning in 2010, all Medicare Part D enrollees who reach the donut hole will receive a \$250 rebate. The law will gradually reduce the donut hole by phasing down the coinsurance in the coverage gap each year so that it reaches the standard 25% beneficiary cost sharing by 2020 throughout the entire coverage gap.

Reinsurance Program for Early Retirees - A temporary reinsurance program will be created by the federal government 90 days after enactment of the law to pay back employers that provide retiree health coverage. The program will reimburse employer plans for 80% of the cost of benefits provided to retirees age 55 through 64 in excess of \$15,000 but not more than \$90,000. The program will end by 2014 or when the \$5 billion government funding is used up.

Effective on 10/1/2010

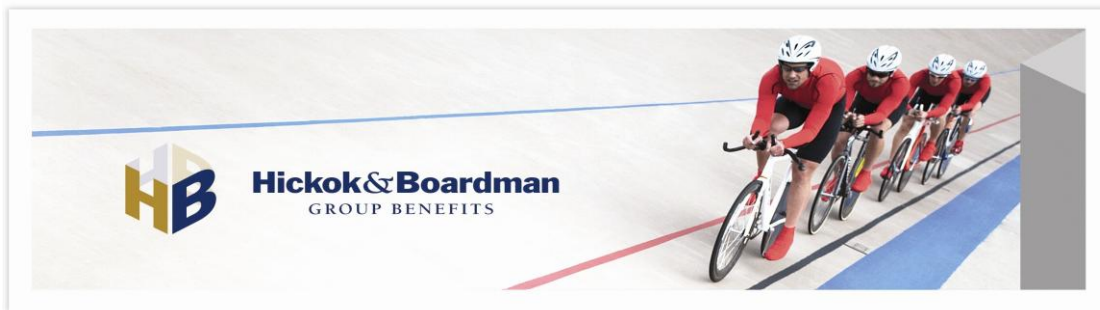
Benefit Design and Eligibility Changes - Eliminates lifetime limits on coverage (eliminates annual limits in 2014), no preexisting condition exclusions on children under 19 (all participants in 2014), all plans must satisfy the nondiscrimination requirements in favor of highly compensated individuals, eliminate waiting periods for coverage of greater than 90 days. All plans must offer dependent coverage to adult children up to age 26 (regardless of whether they qualify as the employee’s tax dependent) who are not eligible for coverage under another employer’s health plan. The coverage would not be taxable to the employee or dependent and beginning in 2014, the requirement that the nondependent child must not be eligible for coverage under another employer’s plan would no longer apply.

Effective 1/1/2011

W-2 Reporting of Health Plan Values - Beginning with the W-2 form covering the year 2011, employers will be required to disclose the COBRA value of each employee’s health coverage on the employee’s annual Form W-2 filed with the IRS to determine if the Cadillac tax applies.

Account-based plans - The costs of over-the-counter medicines will not be eligible for reimbursement from a health flexible spending account (FSA), health savings account (HSA) or health reimbursement arrangement (HRA) unless obtained with a prescription. Additionally, the penalty on withdrawals from HSAs for non-qualified medical expenses will increase from 10% to 20%.

Medicare Advantage plans - Restructures payments to Medicare Advantage plans by setting payments to different percentages of Medicare fee-for-service (FFS) rates, with higher payments (115% of FFS) for areas with low FFS rates and lower payments (95% of FFS) for areas with high FFS rates. Phased in over a three year period, subsequent changes will reward or penalize Medicare Advantage plans based on financial and quality performance.



Fees on the pharmaceutical manufacturing sector - The law imposes new annual fees on pharmaceutical manufacturers, which are expected to be passed on to employers and other payors. The schedule for the fees is as follows: \$2.5 billion in 2011, \$2.8 billion in 2012-2013, \$3.0 billion in 2014-2016, \$4.0 in 2017, \$4.1 billion in 2018, \$2.8 billion in 2019 and later.

Changes to Medicare Part D participants - Drug manufacturers are required to provide a 50% discount to Medicare Part D enrollees on brand-name drugs in the donut hole coverage gap. Also, the Part D premiums will be set higher than the standard level for those individuals with incomes above \$85,000.

Effective 2013

Change in employer tax treatment of the Medicare Part D Subsidy - This provision was originally set to begin in 2011, but was delayed until 2013 in the reconciliation bill. The provision as passed will reduce an employer's tax deduction to the extent the employer's drug expenses are reimbursed under the Medicare Part D drug subsidy program. Although the change does not take effect until 2013, employers participating in the subsidy program will be required to recognize the full impact of the change in the financial statements for the accounting period in which the law become effective.

Remember that we are in the infancy of the overall implementation process, so we'll all need to be patient as the government provides us all with some guidance on the newly enacted rules. Further complicating matters is the threat of lawsuits and constitutional challenges that may emerge as a result of the bill's passage. Regardless of how the process plays out moving forward, employers need to:

- ***Immediately*** focus on the impact of the change in tax treatment of retiree drug subsidy payment and the reinsurance payments for retirees aged 55 to 64.
- ***For plans renewing over the next 6 to 10 months***, employers need to plan and implement for the benefit change provisions (no cost preventive care coverage, dependents to age 26, no lifetime maximums).
- ***Within the next 12 months***, employers must make strategic changes in their overall plan structure and funding for active and retired employees in order to cope with the new funding and structure within our health care system.