

# REFORM *Update*

Issue Two

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Last week, the **Health Care and Education Reconciliation Act of 2010** passed both Houses of Congress. President Obama signed it into law this week.

This is the second health care reform bill, and it modifies **The Patient Protection and Affordable Health Care Act**. The Patient Protection and Affordable Health Care Act included a “grandfathering” provision which allows most employers and individuals to maintain their current health plan. However, the new health care reform provisions *would apply* when an employer or individual *changes* plan design (with some exceptions for changes scheduled in a collective bargaining agreement).

The Reconciliation Act expressly excludes certain provisions from the grandfathering rule. Provisions not offered “grandfather protections” include:

- Removal of lifetime benefit limitations
- Extension of coverage to dependents up to age 26
- Exclusion of pre-existing condition limitations for dependent children (age 19 and under)
- Limits on new hire waiting periods

The second bill made several changes to core provisions of the first bill including:

- Elimination of the tax-favored status of Medicare Part D employer subsidies is delayed until plan years beginning after December 31, 2012. Keep in mind that this change may have an immediate impact on actuarial calculations related to retiree health care liability and may result in a charge to earnings now to reflect the loss of future deductions. Several large employers like Caterpillar, Deere & Co. and AK Steel have announced significant one-time charges to reflect the loss of income.
- Provides additional clarifications to provisions requiring plans to extend coverage to dependent children until age 26:
  - ▶ Eliminates requirement the child be “unmarried”
  - ▶ Clarifies income tax exclusion for health care benefits will be extended to dependents up to age 26
  - ▶ Modifies provisions for “grandfathered groups” until 2014. Dependent extension will only apply to dependents that do not have another source of employer-sponsored health coverage
- Delays the effective date for medical FSA annual contribution cap of \$2,500 until plan years beginning after December 31, 2012
- Modifies provisions of “Cadillac Tax” on rich benefit plans:
  - ▶ Delays effective date until plan years beginning after December 31, 2017
  - ▶ Raises threshold of benefit plan cost to \$10,200 individual / \$27,500 for families
  - ▶ Changes formula for indexing thresholds

- Modifies slightly calculations to determine tax credits for lower income individuals to help purchase health care coverage
- Changes employer mandate requirements:
  - ▶ Requires employers take part-time employees into consideration when determining 50-employee threshold
  - ▶ Increases fine to \$2,000 per employee per year for not providing qualified coverage but exempts the first 30 employees
- Modifies waiting period limitation and allows new hire waiting period to be 90 days or less; more than 90 days is prohibited
- Modifies individual penalty for not having health care coverage to a flat dollar amount or percentage of income, whichever is greater. The fixed dollar amount penalty begins at \$325 per person in 2015 and increases to \$695 per person per year in 2016 (annually indexed). The percent of income starts at 1% in 2014 and adjusts over time to maximum 2.5% of taxable income with a cap tied to a specified plan's average premium.

**Both of these pieces of health care legislation are expansive and will affect all employers. Most of the provisions in these laws will not impact employer group health plans for several years. However, a few of the provisions will need to be addressed by September 2010.**

McGraw Wentworth will continue to issue updates regarding health care reform. Given the complexity and magnitude of the health care reform legislation, our approach will be to address key issues independently over the next few months through our updates. The regulations simply outline the requirements of the bill. Over the next several years, a number of governmental agencies will need to issue clarifying guidance to help employers understand the details to implementing the required changes. McGraw Wentworth will conduct a seminar in 2010 to help mid-size businesses address the impact of health care reform. Hopefully, by the summer, the government will have released some of the administrative rules to assist employers in adopting the more immediate requirements of health care reform.

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