



HEALTH CARE REFORM

Patient Protection and Affordable Care Act (PPACA) and
Health Care and Education Reconciliation Act of 2010

On March 23, 2010, President Obama signed historic health care reform legislation into law when he signed the Patient Protection and Affordable Care Act (PPACA). Then on March 20, 2010, the President signed the Health Care and Education Reconciliation Act of 2010. These two laws together will affect health insurance and higher education funding for all Americans, with a particularly strong impact on employers who sponsor group health plans. The requirements of the law will take effect over the next few years as follows:

2010	
High Risk Pool	Any individual uninsured for 6+ months with a pre-existing condition may apply to receive coverage through a high risk pool until 2014.
Reinsurance for Early Retirees	HHS established a reinsurance program for employers who sponsor retiree medical coverage for retirees not eligible for Medicare that provides reimbursement of claims at 80% of eligible expenses incurred between \$15,000 and \$90,000. The program has a fixed \$5 billion budget and ends 1/1/14.
Grandfathering of Plans	<p>Individual and group health plans in effect as of 3/23/10 and plans in effect under a collective bargaining agreement that was ratified before 3/23/10. Family members of employees and new employees may enroll in the grandfathered plan as long as the plan allowed family coverage as of 3/23/10.</p> <ul style="list-style-type: none"> • Grandfathered plans must disclose to participants every time it distributes materials that the plan is grandfathered and is not subject to some Reform requirements, including contact information for enrollees to have their questions and complaints addressed. <p>Changes that will result in a LOSS of grandfathered status:</p> <ol style="list-style-type: none"> 1. Cannot significantly cut or reduce benefits. 2. Cannot raise the percentage of co-insurance charges required under the plan. 3. Cannot raise co-payment charges more than greater of \$5 (adjusted annually for medical inflation) or a percentage equal to medical inflation plus 15%. 4. Cannot significantly lower employer contributions (percentage of premium paid by employer) more than 5 percentage points. 5. Cannot add or tighten an annual limit on what the insurer pays. 6. Cannot change insurance companies- (<i>Applies to plans that changed insurance companies effective between 3/23/10 and 11/15/10.</i>) Does not apply when self-funded employers switch plan administrators or to collective bargaining agreements. 7. Cannot force participants to switch to another grandfathered plan that has less benefits or costs more, or if it is bought by/merges with another plan, in an effort to avoid complying with law. <p>Grandfathered plans must still adhere to the following (explained below):</p> <ol style="list-style-type: none"> 1. Uniform summary of benefits 2. No lifetime caps and restrictions on annual coverage limits 3. Limits on rescissions of coverage 4. Adult child coverage 5. No pre-existing conditions exclusions for children under age 19 6. Maximum waiting period for benefits of 90 days (effective 2014) 7. No pre-existing conditions exclusions for anyone (effective 2014)

Protection for Nursing Mothers	Employers covered by FLSA must provide “reasonable” breaks to mothers to express milk for infants up to one year old; private space other than a restroom must also be provided. This amendment does not apply to employers with fewer than 50 employees if its requirements would “impose an undue hardship by causing the employer significant difficulty or expense.” Many states have similar laws and the requirements of both the federal and state laws must be complied with as applicable.
Retaliation Provisions	Employers may not discriminate/retaliate against anyone who complains about noncompliance with Reform laws, receives any subsidy, or participates in Exchanges.
Medicare Prescription Drug Coverage Gap	The gap in Medicare prescription drug coverage, the “donut hole,” will be phased out by 2020. In 2010, a one-time \$250 rebate was paid to each enrollee who enters donut hole. In 2011, a 50% discount on brand name drugs will be provided with funding by pharmaceutical manufacturers. Starting in 2011 donut hole will be phased down until it reaches a 25% coinsurance in 2020.
Small Employer Tax Credits	Small employers with <10 Full Time Equivalent (FTE) employees earning <\$25,000 may be eligible for a tax credit of 35% of health insurance costs. Companies with 11- 25 FTEs earning up to \$50,000 and non-profit organizations may be eligible for partial tax credits.
1st Day of Plan Year After September 23, 2010	
Limits on Coverage	Lifetime caps on coverage prohibited. Annual caps are also prohibited; however, between now and 2014 plans may place limits on nonessential benefits only.
No Rescission of Coverage	Plans may not cancel policies of people who fall ill. Policies can only be cancelled if the participant engaged in fraud or intentional misrepresentation of material fact.
Pre-Existing Conditions	Children under age 19 with pre-existing conditions can not be denied coverage.
Adult Child Coverage Requirements	Dependent children must be offered coverage under their parents’ plans until they turn 26 whether married or unmarried. Adult child coverage is exempt from federal taxes through the end of the tax year in which the child turns 26.
Preventative Care <i>*N/A if grandfathered</i>	Coverage for preventative care must be covered without cost sharing, including immunizations, preventative care & screenings for infants/adolescents, & preventative care for women. Prior authorization & referrals for OB/GYN services prohibited.
Emergency Services <i>*N/A if grandfathered</i>	Participants may use emergency services without prior authorization and at in-network rates, even if the emergency facility or provider is out-of-network.
Primary Care Providers <i>*N/A if grandfathered</i>	Plans that require participants to establish a primary care provider (PCP) must allow any available participating provider to be used as a PCP, including pediatricians.
Appeals Process Expanded <i>*N/A if grandfathered</i>	Plans must establish an external appeals process that meets or exceeds state law or NAIC model. Notice of these processes and availability of assistance must be provided to enrollees in a culturally/linguistically appropriate manner, meaning that notices may need to be provided in multiple languages. Enrollees must be allowed to review their files, present evidence/testimony, & receive continued coverage pending outcomes.
2011	
Medical FSA’s, HSA’S, and HRA’S	Over-the-counter drugs no longer reimbursable by medical FSA’s, HSA’S, or HRA’S unless a health care provider provides a written prescription.
Penalties for Non-Qualified HSA/Archer MSA Distributions	The tax imposed on non-qualified distributions increases from 10% to 20%.
2012	
W-2 Reporting	The cost of employer-sponsored coverage must be reported each year on the employee’s W-2; excludes FSA’s, HRA’s, and Archer medical savings accounts. Not required on 2012 W-2’s issued prior to January 2013. Not required to provide W-2’s for those an employer would not otherwise provide one for (such as a retiree or COBRA participant receiving no compensation). Employers issuing fewer than 250 W-2’s for the 2012 tax year may wait

	until the 2013 tax year to begin this reporting.
Uniform Summary of Benefits	HHS-developed template for providing summaries of benefits and coverage explanations. Uniform summaries of benefits must be provided to plan participants by 3/23/12. Notice of material modifications to plan benefits (not including changes made at plan renewal) thereafter must be provided at least 60 days before they become effective. Notice will be developed by carriers for fully-insured plans. Notice may be provided by TPA's for self-funded plans, but is still to be determined. UPDATE: THE EFFECTIVE DATE OF THIS PROVISION HAS BEEN PUT ON HOLD INDEFINITELY.
Per-Head Fee	Insured/self-insured plans will be charged a \$2 fee for each covered life for each plan year ending after September 30, 2012. In 2014, the per-head charge will increase by the percentage increase in health care spending and does not apply to plan years ending after September 30, 2019. The fees collected will fund a "Patient-Centered Outcomes Research Trust Fund."
2013	
Medical FSA's Limits	Annual limit on maximum election for medical FSA's of \$2500 per year.
Employee Notice	By March 1, 2013, employers must provide notice to employees regarding availability of exchanges, premium credits and cost-share reductions if the plan's share of the costs of benefits is less than 60%, and that if the employee purchases coverage through an exchange and the employer is providing minimum essential coverage the employee will lose the benefit of the employer subsidy under the plan. New employees must receive this notice at their time of hire beginning March 1, 2013.
Taxation of Retiree Drug Subsidies (Medicare Part D)	Employers will be taxed on subsidies they receive for maintaining retiree drug coverage for Medicare-eligible employees. Employers must report subsidies they receive for providing creditable prescription drug plans for retirees as gross income.
Taxes for High-Income Families	Families with annual gross income of \$250,000+ will have additional 3.8% tax on investment income & contribute higher amounts to Medicare through payroll taxes.
2014	
Guaranteed Coverage	Coverage available to everyone. No pre-existing conditions exclusions/rescissions.
Essential Benefits <i>*N/A if grandfathered</i>	Each state will establish essential benefits/types of coverage required of all plans to include at least: ambulatory patient services, emergency services, hospitalization, maternity/newborn care, mental health & substance abuse services including behavioral health treatment, prescription drugs, rehabilitative/habilitative services & devices, laboratory services, preventative & wellness services & chronic disease management, pediatric services including oral & vision care and clinical trial participation.
Medicaid Expansion	Medicaid expanded to individuals with incomes up to 133% of federal poverty level.
Exchanges and Subsidies	States will establish Exchanges where individuals & small employers (100 employees or less) will pool together to buy insurance. Large employers (100+ employees) may participate in 2017 if states choose to allow. Premiums capped at percentage of income from 3% to 9.5%. Each state must offer at least two multistate plans.

Individual Coverage Requirements and Penalties	<p>Individuals required to purchase insurance or pay a penalty (greater of \$95 or 1% of gross annual income the 1st year and subsequently increases to \$695 or 2.5% of income.)</p> <ul style="list-style-type: none"> • Waivers available for those who cannot find a policy that costs less than 8% of their income, families below income-tax filing thresholds, members of Indian tribes, religious objectors, those not lawfully present in U.S. and incarcerated individuals. • Individuals who cannot find a plan that costs less than 8% of their income may be able to purchase catastrophic policies otherwise limited to individuals under age 30. • Individuals may receive a sliding scale of tax credits if their income is between 100%-400% of the federal poverty level (FPL). If employer coverage is available that meets minimum standards, employee is not eligible for tax credit/subsidy unless their income is less than 400% of FPL, employer plan is unaffordable (costs more than 9% of their income), or does not cover at least 60% of benefits.
Employer-Sponsored Coverage	<p><u>ALL EMPLOYERS</u>- Group health plans prohibited from having pre-existing conditions exclusions, placing excessive waiting periods on benefits eligibility for new hires (90-day maximum), & placing annual/lifetime dollar limits on benefits. Insurers only able to vary premiums by geographic location, age, & tobacco use. Group health plans required to cover specific services & at least 60% of health costs. Employees who pay >9.5% of their income on premiums or whose group health plan covers <60% of cost of their benefits may be able to purchase coverage through state-run exchange.</p> <p><u>SMALL AND MID-SIZE EMPLOYERS</u>- A grant program will be established to encourage small and mid-sized employers to develop wellness programs.</p> <p><u>EMPLOYERS WITH 50+ EMPLOYEES</u>- “Play or Pay”= Tax penalties will be assessed for companies with 50+ FTE employees that do not provide health insurance up to \$2,000/employee, with the first 30 employees being exempt. Any employer with 50+ employees that does offer coverage but has at least 1 FTE receiving premium assistance to purchase coverage through exchanges must pay the lesser of \$3,000/employee receiving that credit or \$750 per FTE.</p> <p><u>EMPLOYERS WITH 200+ EMPLOYEES</u>- Must auto-enroll employees in group health plan with opt out option.</p>
2018	
Tax on Cadillac Health Plans	<p>Employers will be taxed on high-end “Cadillac” health plans (those with total premiums of \$10,200 or more for singles and \$27,500 for families) each year. Excess premium subject to a 40% tax. HSA’s, HRA’s and FSA’s included for purposed of calculating this tax. Free-standing dental/vision benefits not taxable for purposes of this tax.</p>

Additional Fundraising Measures

- Eliminates the Medicare Part D tax deduction.
- Creates a 10% tax on indoor tanning.
- \$2 billion fee annually on pharmaceutical and medical device manufacturers.
- \$6 billion fee annually on health insurance companies with \$50 million in profits, prorated based on profits.

Student Loan Administration

The Health Care and Education Reconciliation Act of 2010 also includes changes to the college student loan system by cutting commercial banks out of the process. Additional funds will be funneled into the Pell Grant program, student loan repayments will be capped at 10% of discretionary income, and loan balances will be forgiven after 20 years of timely payments.

In response to the Patient Protection and Affordable Care Act and the Health Care and Education Tax Credit Reconciliation Act, collectively known as Health Care Reform, Kistler Tiffany Benefits has formed a Health Care Reform committee to monitor legislation and provide guidance to our valued clients. Our team is creating user-friendly tools and resources, as well as establishing best practices for our clients in regards to the application of this legislation. For more information regarding our services, access the KTB Health Care Reform Center at www.ktbenefits.com.