Health Care Update: Impact of Health Reform

National Council on Teacher Retirement

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A New Era Has Begun

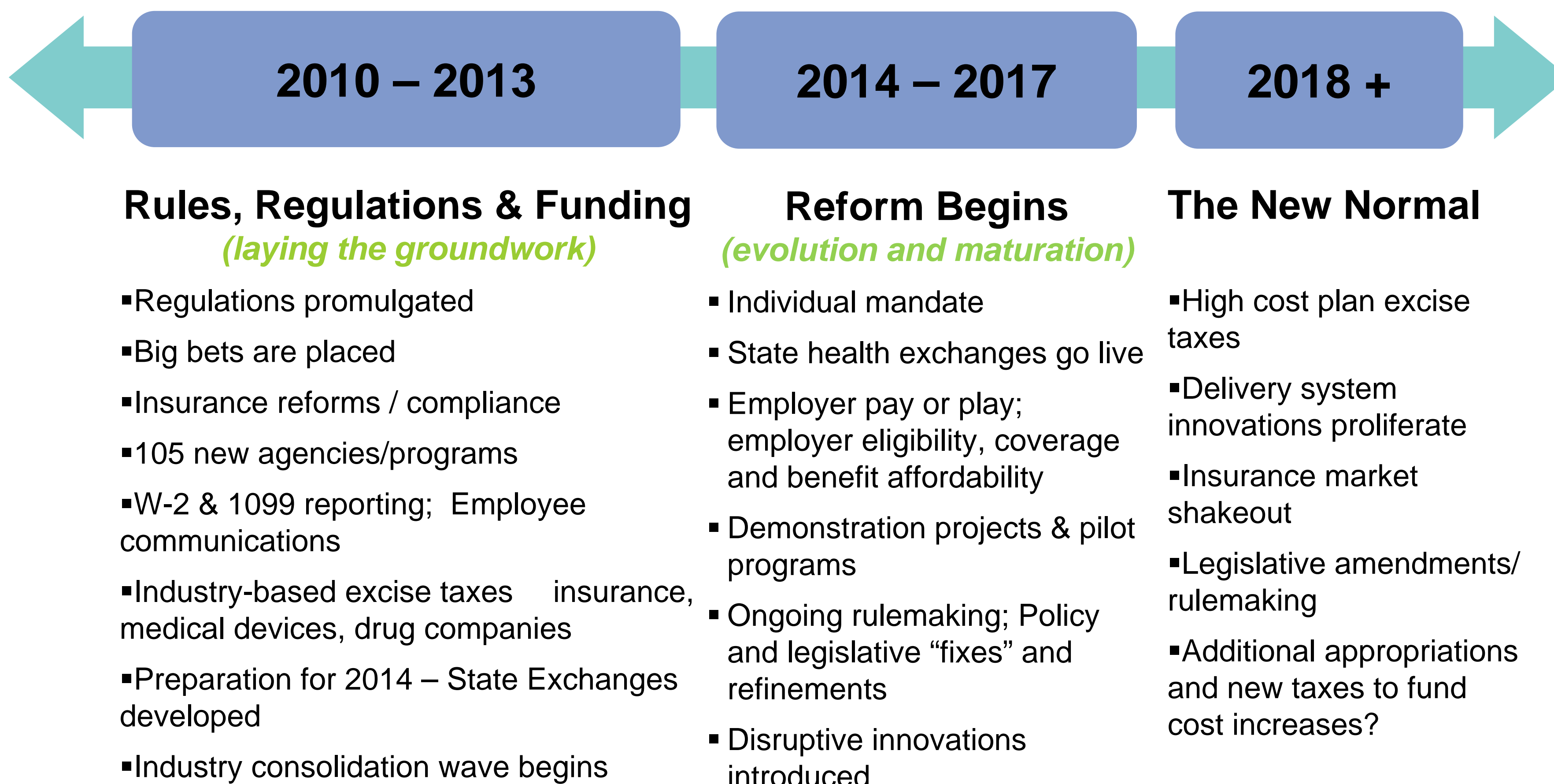
After more than a year of political debate and legislative jousting, Congress has passed and the President has signed a comprehensive health reform package

1. *Patient Protection and Affordable Care Act (HR 3590 signed March 23, 2010)*
2. *Health Care and Education Reconciliation Act of 2010 (HR 4872 signed March 30, 2010)*

The details of the Act will take time to fully grasp and federal regulations are needed to fill in the gaps; **but there are several areas in sharp focus - with more immediate deadlines - that employers will need to understand now as the backdrop for emerging employee health benefit strategies**

Health Reform Overview: Transformation will unfold over many years

Health reform provisions will transform the U.S. health care system in three major phases, bringing us from today's system to the future-state health model after 2018



Rules, Regulations & Funding

(laying the groundwork)

- Regulations promulgated
- Big bets are placed
- Insurance reforms / compliance
- 105 new agencies/programs
- W-2 & 1099 reporting; Employee communications
- Industry-based excise taxes insurance, medical devices, drug companies
- Preparation for 2014 – State Exchanges developed
- Industry consolidation wave begins

Reform Begins

(evolution and maturation)

- Individual mandate
- State health exchanges go live
- Employer pay or play; employer eligibility, coverage and benefit affordability
- Demonstration projects & pilot programs
- Ongoing rulemaking; Policy and legislative "fixes" and refinements
- Disruptive innovations introduced

The New Normal

- High cost plan excise taxes
- Delivery system innovations proliferate
- Insurance market shakeout
- Legislative amendments/ rulemaking
- Additional appropriations and new taxes to fund cost increases?

New Insurance Market Rules

Changes Effective 2011
(plan years beginning on or after September 23, 2010)

All Plans:

- ***Lifetime & Annual Limits*** – Plans can no longer impose lifetime or annual dollar limits (annual limits phased in for 2011-2013)
- ***Coverage of Children*** – Plans must allow coverage of all children of employees until age 26 regardless of dependent status, schooling, etc.
- ***Limits on Insurer Profits*** – Insured plan loss-ratios cannot be below 85%

Non-grandfathered Plans Only:

- ***Preventive Care*** – Specified preventive services must be covered with no employee cost-sharing
- ***Plans for Highly Compensated*** – All plans must now satisfy non-discrimination rules
- ***Emergency Services*** – Plans cannot require prior-authorization or cost differentials for out-of-network providers
- ***Access to OB/GYN Providers*** – Plans cannot require authorization or referrals for OB/GYN providers

Changes Effective 2014

All Plans:

- ***Waiting Periods*** – Maximum allowed waiting period is 90 days
- ***Pre-Existing Conditions*** – Coverage limitations are no longer allowed (not allowed for children starting in 2011)

Non-grandfathered Plans Only:

- ***Limits on Cost Sharing*** – Out-of-pocket limits cannot exceed $5,950 single/$11,900 family; Deductibles may be limited to $2,000 single/$4,000 family
- ***Provider Access*** – Plans cannot discriminate against providers with respect to participation
- ***Approved Clinical Trials*** – Plans must cover certain approved clinical trials

New Insurance Market Rules (cont.)

Grandfathered Plans

- Plans in existence on March 23, 2010 are Grandfathered Health Plans if they have continuously covered someone (not necessarily the same person) since March 23, 2010.
- Grandfathered Health Plans do not have to comply with certain group health plan and insurance market rules
- Interim final regulations specify changes that will cause a plan to lose grandfather status
  1. Any new insurance contract entered into after March 23, 2010
  2. Eliminating all or substantially all benefits to diagnose or treat a particular condition
  3. Increasing employee cost-sharing requirements by more than certain thresholds
     - Any increase in the coinsurance percentage (i.e. from 10% to 20% coinsurance)
     - Cumulative increase since March 23, 2010 in deductibles or out-of-pocket limits greater than medical CPI + 15%
     - Cumulative increase in copayments greater than $5 (indexed by medical CPI since March 2010)
  4. Decreasing employer premium contributions for any coverage tier by more than 5% below the percentage on March 23, 2010
  5. Adding new annual limits or reducing existing ones
- Relief might be available for changes made after March 23, 2010 but before the interim final regulations were released for public review
- Special participant notice and recordkeeping requirements must be satisfied to maintain grandfather status
- Special rules apply to plans maintained pursuant to one or more collective bargaining agreements

New Insurance Market Rules (cont.)

Example of how the grandfathering rules would apply for potential plan changes in 2011:

- Assume Medical CPI index increases 3% from March 2010 to December 2010.
- Assume 10% increase in premiums from 2010 to 2011.

Plan Parameters	Plan in Effect on 3/23/10		Max. Change Allowed in order to Maintain Grandfathering	Plan Effective for 2011 that Still Maintains Grandfathering	
	Single	Family		Single	Family
Annual deductible	$750	$1,500	18% (15% + 3% CPI increase)	$885	$1,770
Coinsurance %	20%	20%	None	20%	20%
Max. out-of-pocket (incl. ded.)	$2,000	$4,000	18% (15% + 3% CPI increase)	$2,360	$4,720
Office visit copayment	$20	$20	$5.15 ($5 + 3% CPI increase)	$25.15	$25.15
Total monthly premium	$600	$1,300		$660	$1,430
EE contribution	$90	$455		$132	$572
EE contribution as a % of premium	15%	35%	5% additional	20%	40%
Employer portion of premium	$510	$845		$528	$858

New Insurance Market Rules (cont.)

Special Rules for Collectively Bargained Plans

- Fully-insured group health plans that are subject to one or more collective bargaining agreements in effect on March 23, 2010 will continue to be grandfathered health plans until the last of these collective bargaining agreements terminates
  - Changes made while these collective bargaining agreements remain in effect that otherwise would cause a loss of grandfathered status – including a change in issuers – will not have any effect on the plan's grandfathered status until the final agreement terminates
- Self-insured group health plans do not get any special protection under the grandfathering rules regardless of whether they are maintained pursuant to one or more collective bargaining agreements
- All grandfathered health plans maintained pursuant to one or more collective bargaining agreements in effect on March 23, 2010, whether fully-insured or self-insured, must comply with the group health plan mandates applicable to grandfathered health plans. These include:
  - ✓ Ban on annual and lifetime limits
  - ✓ Ban on preexisting condition exclusions
  - ✓ Age 26 eligibility mandate for employees' children
  - ✓ Ban on waiting periods exceeding 90 days

Retiree-Only Plans

- Separate retiree-only health plans are exempt from the insurance market rules and requirements

New Insurance Market Rules (cont.)

Early Retiree Reinsurance Program (ERRP)

- A temporary federal reinsurance program will be established to reimburse employment based plans for a portion of the cost of health insurance coverage for retirees at least age 55 and not yet eligible for Medicare.
- Program will subsidize 80% of costs between $15,000 and $90,000 per claimant
- Program begins June 1, 2010 and ends 01/01/2014. Only $5 billion has been appropriated for this program.
- To be eligible, plans must implement disease management and other clinical programs designed to generate cost savings for those with chronic and high-cost conditions
- Regulations issued May 5, 2010.
- Employers must apply. Application form, instructions, and supporting documents are currently available on the HHS website
- HHS began accepting applications on June 29. Application process is initially a paper process until an on-line process can be developed.

Other Employer Requirements

Year	Requirements
2011	**Appeals Process** – Effective 2011, employers must implement an effective appeals process for coverage and claims determination. The process must include internal and external procedures, notice requirements and employee file reviews. **Does not apply to Grandfathered Plans.** **Reporting of Coverage** – Effective 2011, employers are required to disclose (on W-2) the value of health benefits
2012	**Auto-Enrollment** – Employers with more than 200 employees must automatically enroll full-time employees in an employer-sponsored health plan (employees may opt out). Awaiting regulations – expected to be effective 2012. **Quality Reporting** - Insurers and group health plans must annually submit to the Secretary of HHS and the plan's enrollees a report on whether the benefits under the plan satisfy certain quality initiatives. Effective for plan years beginning on or after September 23, 2010, except the Secretary of HHS has up to two years after enactment to develop the report requirements – expected to be effective 2012. **Does not apply to Grandfathered Plans.** **Uniform Standards for SPDs** - Group health plans and insurers will need to use a standardized SPD format with certain required explanations, examples, and definitions (to be developed by the Secretary of HHS by 3/23/11). Must be utilized by plan sponsors no later than 3/23/12.
2013	**Exchange Coverage Notice** – Effective March 1, 2013, employers are required to notify current and new employees of the existence of an Exchange and describe the services offered by the Exchange
2014	**Reporting of Employer Coverage** – Effective 2014, employers must file an annual return with the IRS that certifies whether full-time employees have the opportunity to enroll in minimum essential coverage. Information about the plan design, contributions, etc. must be provided.

New Taxes and Tax Rules

Year	Details
2011	**FSA/HSA/HRA** – Effective 2011, over the counter medications not reimbursable through FSA or HRA and Non-health HSA distributions taxed at 20%
2012	**Industry fees** – Starting in 2012, certain industry fees & taxes will be assessed against all health insurance companies, pharmaceutical manufacturers, medical device manufacturers, and indoor tanning services (expected to be passed along to consumers through increased premiums and fees) **PCORTF fees** – Patient-Centered Outcomes Research Trust Fund fees imposed on sponsors of self-funded health plans to partially fund comparative effective research; fees will equal $1 per covered life in 2012, $2 per covered life in 2013, increasing by the rate of US health care spending thereafter through 2019, (no fees assessed after 2019)
2013	**FSA** – Effective 2013, health care FSA annual contribution limit reduced to $2,500 **Tax on high income individuals** – Effective 2013, for those with adjusted gross income over $200K/$250K (individual/joint returns), increase employee's Medicare Part A tax 0.9% to 2.35% for earnings and wages over $200K/$250K and 3.8% tax on all unearned income – does not impact employer's tax payment **Individual Medical Expense Tax Deductions** – Effective 2013, increase AGI threshold from 7½% to 10% for individual tax deductibility of-unreimbursed medical expenses **Medicare Part D** – Effective 2013, employer tax deduction for Medicare Part D retiree drug subsidy eliminated
2018	**High Value Plan Tax** – Effective 2018, 40% tax on benefit values in excess of $10,200 for individuals and $27,500 for families (Indexed at CPI-U+1% for 2019 and CPI-U for 2020 and later). Tax is imposed on the issuer of insurance or plan administrator.

So, What Should Employers Do Now?

1. Analyze the impact and cost of initial reform compliance

- Perform a cost analysis of insurance reforms that are part of the new legislation and are generally effective on January 1, 2011.
  - ✓ Employer health benefits coverage and costs are differ by industry; health reform may have significant financial impact on employers in some sectors with **initial cost estimates in the 5% - 15% range.** Some employers may experience lower costs.
- Document compliance with new government filings, employee communication mandates, employee tax withholding changes, and their associated administrative/systems implications (see 'Smart First Steps' POV for timeline.)
- Analyze the impact of 'grandfather status regulations' on existing health plans
  - ✓ Health plans in existence on the date of enactment are 'grandfathered' and do not have to comply with parts of the Act **as long as plan features and cost sharing do not change significantly.** Until final guidance is available, it may be prudent to ensure retention of grandfather status and avoid potential unintended consequences.

So, What Should Employers Do Now?

2. Understand the impact of health reform on staffing: workforce planning scenarios

- The Act, for the first time, defines a ‘full-time’ employee for benefit purposes and imposes maximum waiting period provisions for new hires. These and other eligibility and waiting period mandates go into effect in 2014. As a result, industry sectors that heavily rely on part-time, temporary or variable-schedule workforce may see dramatically increased benefit exposure.
- A change in workforce composition may be more desirable than an expanded benefits-eligible workforce.

3. Project the impact of possible employer penalties in 2014 and later

The Act imposes penalties in a variety of situations:

- No offer of coverage to full-time employers (generally $2,000 per FTE per year)
- Benefits that do not meet coverage or affordability thresholds (penalties vary)
- Benefits that are too generous (a 40% excise tax on the excess benefits; effective 2018). **Sectors that have historically offered generous benefits may be hard hit by this tax: manufacturing, public sector, collectively bargained plans, etc.**
- **Scenario planning** can be beneficial to determine the ongoing role of health benefits in a revised talent scenario.

So, What Should Employers Do Now?

4. Explore alternative health benefit design and funding scenarios

The reform legislation created a series of **'safe harbors'** for health benefit plans: minimum standards for affordability, coverage ('minimum essential health benefits'), and eligibility. In addition, other provisions of the Act may help shape alternative employer approaches. These standards and provisions allow for the development of a number of alternative benefit scenarios - options that can help shape the design and financial framework of post-reform benefit programs. For example, an employer could start by looking at these scenarios as a beginning point; many others could follow

- Elimination of the health benefit program; paying the $2,000 penalty, leveraging the existence of the Exchanges, and assessing the revised talent strategies that may be needed in the absence of healthcare coverage
- Thinking differently about pre-65 retiree coverage
- Compliance-focused; changing only the benefit provisions as required by the new legislation
- Minimum standards thresholds; both changing the benefit provisions as required by the new legislation and incorporating the safe harbor provisions regarding affordability, coverage and eligibility.
- Converting from a health plan that operates like a 'defined benefit' into one that looks more like a 'defined contribution'.

New alternatives will exist in 2014 when the majority of the reform provisions take effect. **Now is the time to explore these new options.**

Deloitte Health Reform Reference Materials

Smart First Steps for Employers

Deloitte.

The implications of health care reform
An overview of key provisions and
Smart First Steps

The Health Reform Diagnostic

Deloitte.

An Employer Health Reform Diagnostic… Smart First Steps
Consider the many financial implications of health reform.
What's the diagnosis for large employers?

Issue Briefs

Deloitte.

Extension of dependent coverage to age 26
Smart first steps

Deloitte.

Ban on preexisting condition exclusions
Smart first steps for employers

Deloitte.

Implementing and communicating changes to Health FSAs
Smart first steps

Deloitte.

Mandatory coverage of preventive services
Smart first steps for employers

Deloitte.

Internal and external appeals of claims decisions
Smart first steps for employers

CFO Insights

Deloitte.

CFO insights:
Health Care Reform:
What is your timeline?

Deloitte.

CFO insights:
Health care reform: Employee benefits considerations for CFOs

Employer Sponsored Health Plans – by Industry

Deloitte.

Employer-sponsored Health Plans
The implications of health care reform for retailers

Monday Memo

Deloitte.

June 14, 2010
Monday memo
Health reform update

Learn more about Health Reform implications for employers at:
http://www.deloitte.com/us/employerhealthreform

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