

# Health Care Update: Impact of Health Reform

National Council on Teacher Retirement

Patrick L. Pechacek, CEBS  
Deloitte Consulting LLP

October 13, 2010

**Deloitte.**

---

## 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

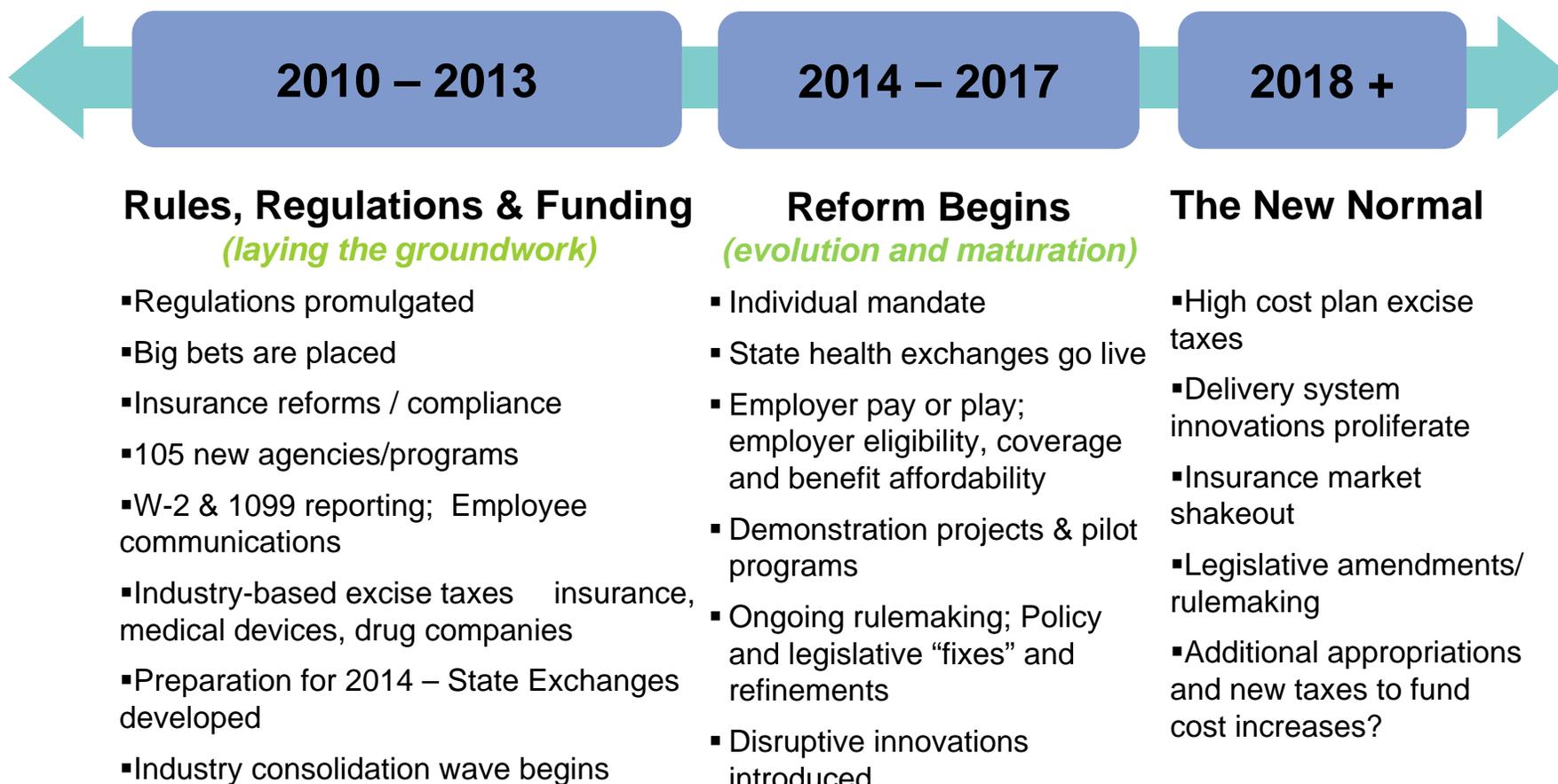
- 1. Patient Protection and Affordable Care Act (HR 3590 signed March 23, 2010)*
- 2. Health Care and Education Reconciliation Act of 2010 (HR 4872 signed March 30, 2010)*

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



# 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

---

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

---

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 employees (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



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



**Key provisions:**

- Employer-sponsored health plans will be subject to the new rules of the Affordable Care Act (ACA) starting in 2014.
- Employers with 50 or more full-time equivalent employees (FTEs) will be required to offer health insurance to their employees.
- Employers with 50 or more FTEs will be required to pay at least a portion of the cost of the health insurance.
- Employers with 50 or more FTEs will be required to offer a self-insured health plan or a fully insured health plan.
- Employers with 50 or more FTEs will be required to offer a self-insured health plan or a fully insured health plan.

**Smart First Steps:**

- Review your current health plan to determine if it meets the requirements of the ACA.
- Consider the implications of the ACA for your business and employees.
- Consult with a qualified professional to help you understand the implications of the ACA.
- Develop a plan to address the requirements of the ACA.

## Employer Sponsored Health Plans – by Industry



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



**Key provisions:**

- Employers with 50 or more FTEs will be required to offer health insurance to their employees.
- Employers with 50 or more FTEs will be required to pay at least a portion of the cost of the health insurance.
- Employers with 50 or more FTEs will be required to offer a self-insured health plan or a fully insured health plan.

**Smart First Steps:**

- Review your current health plan to determine if it meets the requirements of the ACA.
- Consider the implications of the ACA for your business and employees.
- Consult with a qualified professional to help you understand the implications of the ACA.
- Develop a plan to address the requirements of the ACA.

## The Health Reform Diagnostic



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

**Key findings:**

- Employers are concerned about the impact of the ACA on their health plans.
- Employers are looking for ways to reduce costs and improve the quality of care.
- Employers are seeking advice from Deloitte on how to navigate the complexities of the ACA.

**Smart First Steps:**

- Conduct a health reform diagnostic to assess your current health plan.
- Identify areas of opportunity for cost savings and quality improvement.
- Develop a plan to address the findings of the diagnostic.

## Monday Memo



**June 14, 2010**  
Monday memo  
Health reform update

**This week's headlines (click to jump to article):**

- Health insurance industry update: Watchful waiting
- Deloitte Pulse Survey: Concern about cost impact of reform is significant, and anticipation of changes to employer-sponsored benefits high
- Economic outlook mixed: Treasury, WSJ reports
- Additional Medicaid funding
- HHS updates
- FITD issues \$250 checks in the mail
- G & A
- Quarterly
- Fact file
- Related health reform: What now?
- Subscribe to the Health Care Reform Monitor
- Deloitte Center for Health Solutions research
- Deloitte contacts

**Health insurance industry update: Watchful waiting**  
From last week's AHP (America's Health Insurance Plans) Policy Institute in Las Vegas, the messages from the array of industry and government leaders were clear:

- The Patient Protection and Affordable Care Act (PPACA) is a work in progress; follow-on administrative and regulatory decisions that clarify how it

## Issue Briefs



**Extension of dependent coverage to age 26**  
Smart first steps

**Key findings:**

- Employers are looking for ways to extend dependent coverage to age 26.
- Employers are seeking advice from Deloitte on how to navigate the complexities of the ACA.

**Smart First Steps:**

- Review your current health plan to determine if it meets the requirements of the ACA.
- Consider the implications of the ACA for your business and employees.
- Consult with a qualified professional to help you understand the implications of the ACA.
- Develop a plan to address the requirements of the ACA.

**Ban on preexisting condition exclusions**  
Smart first steps for employers

**Key findings:**

- Employers are looking for ways to ban preexisting condition exclusions.
- Employers are seeking advice from Deloitte on how to navigate the complexities of the ACA.

**Smart First Steps:**

- Review your current health plan to determine if it meets the requirements of the ACA.
- Consider the implications of the ACA for your business and employees.
- Consult with a qualified professional to help you understand the implications of the ACA.
- Develop a plan to address the requirements of the ACA.

**Implementing and communicating changes to Health FSAs**  
Smart first steps

**Key findings:**

- Employers are looking for ways to implement and communicate changes to Health FSAs.
- Employers are seeking advice from Deloitte on how to navigate the complexities of the ACA.

**Smart First Steps:**

- Review your current Health FSA plan to determine if it meets the requirements of the ACA.
- Consider the implications of the ACA for your business and employees.
- Consult with a qualified professional to help you understand the implications of the ACA.
- Develop a plan to address the requirements of the ACA.

**Mandatory coverage of preventive services**  
Smart first steps for employers

**Key findings:**

- Employers are looking for ways to ensure mandatory coverage of preventive services.
- Employers are seeking advice from Deloitte on how to navigate the complexities of the ACA.

**Smart First Steps:**

- Review your current health plan to determine if it meets the requirements of the ACA.
- Consider the implications of the ACA for your business and employees.
- Consult with a qualified professional to help you understand the implications of the ACA.
- Develop a plan to address the requirements of the ACA.

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

**Key findings:**

- Employers are looking for ways to improve internal and external appeals of claims decisions.
- Employers are seeking advice from Deloitte on how to navigate the complexities of the ACA.

**Smart First Steps:**

- Review your current health plan to determine if it meets the requirements of the ACA.
- Consider the implications of the ACA for your business and employees.
- Consult with a qualified professional to help you understand the implications of the ACA.
- Develop a plan to address the requirements of the ACA.

## CFO Insights



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

**Key findings:**

- CFOs are looking for ways to understand the implications of the ACA on their businesses.
- CFOs are seeking advice from Deloitte on how to navigate the complexities of the ACA.

**Smart First Steps:**

- Review your current health plan to determine if it meets the requirements of the ACA.
- Consider the implications of the ACA for your business and employees.
- Consult with a qualified professional to help you understand the implications of the ACA.
- Develop a plan to address the requirements of the ACA.

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

**Key findings:**

- CFOs are looking for ways to understand the implications of the ACA on employee benefits.
- CFOs are seeking advice from Deloitte on how to navigate the complexities of the ACA.

**Smart First Steps:**

- Review your current employee benefits plan to determine if it meets the requirements of the ACA.
- Consider the implications of the ACA for your business and employees.
- Consult with a qualified professional to help you understand the implications of the ACA.
- Develop a plan to address the requirements of the ACA.



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

## Patrick L. Pechacek, CEBS

---



### **Pat Pechacek, CEBS**

Director  
Human Capital Practice  
State and Local Government Employer Health Leader  
Deloitte Consulting LLP  
50 South Sixth Street  
Minneapolis, MN  
612-397-4033  
[ppechacek@deloitte.com](mailto:ppechacek@deloitte.com)

Pat has over 25 years of experience and holds a leadership position in our public sector benefits practice. Pat is responsible for delivery of services to State employee group insurance, retiree health, and local government health plans. His current clients include State of Minnesota State Employees Group Insurance Program; State of Minnesota Public Employees Insurance Program; State of Wisconsin Department of Employee Trust Funds; State of North Dakota Public Employees Retirement System; State of Iowa Human Resources Enterprise; Minnesota Department of Corrections; and Hennepin, Dakota and Ramsey Counties. He has served as a strategic advisor to the client service teams for the State of Connecticut, State of Georgia, and State of Illinois.

Mr. Pechacek is a Certified Employee Benefits Specialist (CEBS), and is a Past President of the Twin Cities Chapter of the International Society of CEBS. He is also an Associate Member of the State and Local Government Benefits Association (SALGBA). Mr. Pechacek received his bachelor's degree from the University of Minnesota.

**Deloitte.**

Copyright © 2010 Deloitte Development LLC. All rights reserved.

Member of  
**Deloitte Touche Tohmatsu**