



March 22, 2010

Federal Health Reform Historic vote, but some unfinished business

Executive Summary

Legislative activities

Federal health care reform - state of play

■ History

- **2009** House and Senate passed major health care reform bills
 - House - (HR 3962) “*Affordable Health Care for America Act*” passed Nov. 7
 - Senate - (HR 3590) “*Patient Protection and Affordable Care Act*” passed Dec. 24
- **January 2010**
 - Loss of Dem. Senate seat in Massachusetts required White House to shift strategy
- **February 22, 2010**
 - White House released its own proposals (based on Senate bill) – details are limited
- **February 25, 2010**
 - Health care summit with Pres. Obama and congressional leaders from both parties
- **March 21, 2010**
 - House OKs Senate (HR 3590) and reconciliation fixes as a “sidecar” to the Senate bill (HR 2847)

■ Next steps

- President expected to sign HR 3590 (Senate bill), perhaps by March 23
- Senate to consider HR 2847 “sidecar” bill
 - **Important: Many provisions, including delayed effective dates for some key provisions affecting employers, appear only in the “sidecar” reconciliation bill which still needs Senate approval (which could result in additional changes) and the President’s signature**

■ Stay tuned!

Health care reform

Overview of key employer elements

New Law - Senate (HR 3590)	“Sidecar” amendments?
Employer mandate/shared responsibility (penalties)	Yes
Free choice vouchers	No
Excise tax on high cost coverage	Yes
New ERISA/Code group health plan standards	Yes
Individual coverage mandate	Yes
\$2,500 health FSA cap, other tax changes for employee benefits	Yes
Adult dependent child coverage to age 26	Yes
Wellness incentive limit increased to 30%	No
Health insurance exchanges	Yes
Medicare changes (including Medicare Advantage and Part D)	Yes
Elimination of tax-free treatment of Medicare Part D drug subsidy	Yes
Early retiree medical reinsurance	No

Top tier employer issues

Passed bill, plus proposed sidecar changes

Issue	Patient Protection and Affordable Care Act	"Sidecar changes"
Employer mandate	<ul style="list-style-type: none"> ■ Shared responsibility provision apply to employers with more than 50 employees ■ Employers offering coverage to full-time employee (i.e., working at least 30 hours a week, determined on a monthly basis) that is unaffordable (i.e., contribution constitutes more than 9.8% of household income) or does not meet minimum standards (i.e., 60% minimum actuarial value) <ul style="list-style-type: none"> — \$3,000 annually for each FTE receiving income-based assistance for health insurance Exchange coverage — Penalties capped at \$750 times total FTEs ■ Employers not offering coverage to FTEs <ul style="list-style-type: none"> — \$750 annually for every FTE if at least one FTE receives income-based premium assistance to buy coverage through new health insurance Exchanges ■ No penalties for employees receiving free-choice vouchers <p>2014</p>	<p>Same, except:</p> <ul style="list-style-type: none"> ■ Shared responsibility provision applies to employers with more than 50 employees (<u>full- and part-time</u>) ■ Employers not offering coverage to FTEs <ul style="list-style-type: none"> — <u>\$2,000</u> annually for every FTE if at least one FTE receives income-based premium assistance to buy coverage through new health insurance Exchanges (<u>no penalty for first 30 FTEs</u>)

Top tier employer issues

Passed bill, plus proposed sidecar changes

Issue	Patient Protection and Affordable Care Act	"Sidecar changes"
Free choice vouchers	<ul style="list-style-type: none">■ Offer vouchers to employees with household incomes at or below 400% of the federal poverty level (FPL) if their contribution for employer-sponsored coverage would be 8%* to 9.8% of household income<ul style="list-style-type: none">— Voucher amount equal to highest (percentage) employer contribution to any of its own plans■ Vouchers to be used for purchasing Exchange-based coverage■ Employees could keep any excess amounts <p>2014</p> <p>* Individual coverage mandate penalties do not apply if over than 8%</p>	<ul style="list-style-type: none">■ Same

Top tier employer issues

Passed bill, plus proposed sidecar changes

Issue	Patient Protection and Affordable Care Act	"Sidecar changes"
Excise tax on high cost coverage	<ul style="list-style-type: none">■ 40% excise tax on "high cost" 40% excise tax on "high cost" coverage, including medical, dental, vision, health FSA contributions, onsite medical clinics, and employer contributions to HSAs■ Initial cap set at \$8,500/single and \$23,000/family■ Higher thresholds for retirees and individuals in high risk professions - \$9,850/single and \$26,000/family■ Temporary higher thresholds for people in highest cost states■ Indexed to CPI + 1% <i>Effective for all plans in 2013</i>	<p>Same, except:</p> <ul style="list-style-type: none">■ <u>Excludes dental and vision coverage</u>■ Initial cap set at <u>\$10,200/single and \$27,500 family (\$11,850 and \$30,950 for retirees and employees in certain high risk professions)</u>■ <u>Threshold adjustments for age and gender</u>■ Indexed<ul style="list-style-type: none">— <u>2018-2019: CPI+1%</u>— <u>2020+: CPI</u> <i>Effective for all plans in 2018</i>

Top tier employer issues

Passed bill, plus proposed sidecar changes

Issue	Patient Protection and Affordable Care Act	"Sidecar changes"
Health plan standards	<ul style="list-style-type: none"> ■ No annual or lifetime dollar limits ■ No cost-sharing for preventive services ■ No pre-existing condition exclusions ■ Limits annual cost sharing to high-deductible plan limit ■ No waiting periods over 90 days (60-90 days subject to a penalty) ■ Dependent child coverage to age 26 ■ Ban on ER preauthorization, OB-GYN preauthorization or referral ■ Mandatory internal and external claims appeal process ■ Enrollee choice of PCP/pediatrician ■ Clinical trial coverage ■ Insured plans subject to minimum medical loss ratio of 85% (plan years beginning on or after date of enactment) <p><i>Grandfathering provision for plans in place prior to enactment could affect applicability date</i></p>	<ul style="list-style-type: none"> ■ Same, except effective date and other changes: ■ <u>Plan years beginning on or after six months after enactment</u> <ul style="list-style-type: none"> — <u>Extend to age 26 coverage for covered employee's (married or unmarried) child without access to other employer coverage</u> ■ <u>Plan years beginning on or after Jan. 1, 2014</u> <ul style="list-style-type: none"> — <u>Extend to age 26 coverage for any covered employee's child</u> — <u>Ban on lifetime and annual limits, preexisting condition exclusions, waiting periods over 90 days, and discrimination in favor of highly compensated individuals</u> ■ <u>Plan years beginning on or after Jan. 1, 2018</u> <ul style="list-style-type: none"> — <u>No cost-sharing for preventive services</u> ■ <u>Dependent coverage to age 26 would be tax-free</u> ■ <u>No penalty for waiting periods of 60-90 days</u>

Top tier employer issues

Passed bill, plus proposed sidecar changes

Issue	Patient Protection and Affordable Care Act	"Sidecar changes"
Auto-enrollment and waiting periods	<ul style="list-style-type: none"> Employers with more than 200 FTEs must auto-enroll new FTEs in a health plan offered by the employer, with adequate notice and opportunity to opt out after auto-enrollment 2014	<ul style="list-style-type: none"> Same <u>No waiting periods of more than 90 days</u> 2014
W-2 reporting of health coverage	<ul style="list-style-type: none"> Yes 	<ul style="list-style-type: none"> Same
Additional tax changes	<ul style="list-style-type: none"> Annual FSA contribution capped at \$2,500 Bars reimbursement of over the counter medications Higher penalty for non-qualified HSA distributions 2011	<ul style="list-style-type: none"> Same, except annual health FSA contributions capped at \$2,500 <u>(indexed by CPI) (2013)</u>

Top tier employer issues

Passed bill, plus proposed sidecar changes

Issue	Patient Protection and Affordable Care Act	"Sidecar changes"
COBRA	■ No provision	■ Same
HIPAA wellness incentives	■ Increases financial incentives available to employees from 20% to 30% of premium <i>2014</i>	■ Same
Group health plan fees	■ Fees assessed on plan sponsors of private insurance for Comparative Effectiveness Research Trust Fund ■ Generally, \$2 per covered life <i>2013</i>	■ Same
Industry fees	■ Fees on health insurers, pharmaceutical manufacturers and medical device manufacturers <i>2013</i>	■ <u>Generally increases fees and delays effective dates for industry fees</u>

Top tier employer issues

Passed bill, plus proposed sidecar changes

Issue	Patient Protection and Affordable Care Act	"Sidecar changes"
Individual income tax changes	<ul style="list-style-type: none"> ■ Medicare payroll tax increases from 1.45% to 2.35% on workers earning more than \$200,000 and couples earning more than \$250,000 per year <p>2013</p>	<ul style="list-style-type: none"> ■ Same, and: ■ <u>Additional Medicare tax for people with taxable income over those thresholds -- 3.8% tax on net investment income over \$200,000/individuals and \$250,000/couples per year</u> ■ <u>Thresholds aren't indexed</u> <p>2013</p>
Individual coverage mandate	<ul style="list-style-type: none"> ■ Individuals must obtain minimum essential coverage ■ Certain exceptions (e.g., lowest cost plan exceeds 8% household adjusted gross income, no coverage for less than 3 months, income under 100% of poverty) ■ Maximum penalty: Greater of \$50 per adult or \$95 per child (family maximum of \$2,250) or 2% of income ■ Enrollment in an employer group health plan would satisfy the mandate <p>2014</p>	<ul style="list-style-type: none"> ■ Same, and: ■ Additional exception if <u>income below the income tax filing threshold</u> ■ <u>Penalty would be the greater of a flat dollar amount (\$325 in 2015, rising to \$695 in 2016, indexed beginning in 2017) or 2.5% of income</u> <p>2014</p>

Top tier employer issues

Passed bill, plus proposed sidecar changes

Issue	Patient Protection and Affordable Care Act	"Sidecar changes"
Exchanges	<ul style="list-style-type: none"> ■ States to create health insurance Exchanges to facilitate purchase of insurance by individuals and small groups ■ States may form regional Exchanges and subsidiary Exchanges within a state ■ HHS to establish Exchange if State does not ■ Must be governmental agency or non-profit entity ■ Income-based assistance for individuals or families with incomes below 400% of federal poverty level <p>2014</p>	<ul style="list-style-type: none"> ■ Generally the same
Income-based tax credit for Exchange coverage	<ul style="list-style-type: none"> ■ Federal premium subsidies for individuals or families with incomes below 400% of federal poverty level <p>2014</p>	<ul style="list-style-type: none"> ■ Same, except <u>higher</u> federal premium subsidies <u>and</u> <u>lowered</u> cost-sharing <p>2014</p>

Top tier employer issues

Passed bill, plus proposed sidecar changes

Issue	Patient Protection and Affordable Care Act	"Sidecar changes"
Changes to Part D retiree drug subsidy taxation	<ul style="list-style-type: none">■ Eliminates retiree drug expense tax deduction for employers receiving Part D retiree subsidy payments 2011	<ul style="list-style-type: none">■ Same, except <u>2013</u>
Reinsurance for early retiree plans	<ul style="list-style-type: none">■ Temporary reinsurance program to reimburse cost of providing coverage to retirees between ages 55-64■ Participating plans to submit reimbursement claims, and receive 80% reimbursement of costs between \$15,000 and \$90,000 for a covered individual; reimbursements can only be used to reduce plan and retiree direct costs■ Program capped at \$5 billion 2010	<ul style="list-style-type: none">■ Same

Federal health care reform – What to do now?

- Monitor federal reform efforts while the path forward is refined
- Consider
 - How potential federal mandates would impact your current plan and costs
 - Analyze potential financial and other impacts of federal reform
- Continue and enhance strategies to control cost and improve effectiveness
 - Ensure plans and vendors are operating at optimal levels of efficiency
 - Provide available wellness incentives to
 - Increase participation/self-care compliance
 - Align internal programs and services to support a healthy workforce
- Understand likely areas of risk
 - Potential for inflation, cost shifting and price increases
 - Address current cost drivers

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