

BREAKING NEWS



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For Immediate Release:

March 2010

Volume 2010 Issue 4

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Health Care Reform Bill to Become Law, But Changes Are Likely

Late Sunday night, the House of Representatives ("House") approved the Senate health care reform bill (the Patient Protection and Affordable Care Act, H.R. 3590) with a vote of 219-212. Immediately following, the House voted 221-220 in favor of a reconciliation or "corrections" bill (the Health Care and Education Affordability Reconciliation Act of 2010, H.R. 4872). The Senate must now approve the corrections bill. President Obama is expected to sign the health care reform bill into law this week, accompanied by the corrections bill, which will contain several changes to the health care reform bill. The President also promised to issue an executive order prohibiting federal funding of abortions. It is believed this promise helped Democrats get enough votes to pass the measures yesterday.

The Senate bill has 10 major sections and is over 2,400 pages long. Under the new law, health insurance coverage would extend to cover the nearly 32 million uninsured residents at a cost of \$940 billion over 10 years, according to the Congressional Budget Office. Provisions in the new law will take effect over the next several years through 2018. Highlights from both bills are as follows:

HEALTH CARE REFORM BILL SUMMARY

Achieving wide-spread health care and insurance market reform will not happen overnight. Reforms will require that all Americans have health care coverage in order for health insurance premiums to remain stable. Changes to the health care reform bill are expected in the "corrections" bill (see page 3 for more details on the "corrections" bill). However, the health care reform provisions as written today are highlighted herein. Provisions expected to become effective over the next year include the following:

EFFECTIVE FOR PLAN YEARS ON OR AFTER THE DATE 6 MONTHS AFTER ENACTMENT (i.e., the first day of the plan year after 6 months from the day the President signs the bill)

- Insurance companies will be prohibited from rescinding the coverage of consumers who become ill
- Health insurers are banned from denying coverage to children with pre-existing conditions
- Lifetime coverage limits are eliminated
- Restrictions on annual coverage limits (by 2014 annual limits prohibited altogether)
- Unmarried, young adults may remain on their parents' health plans until the age of 26
- Medicaid eligibility and services provided may be expanded at the State level as early as April 1, 2010
- Limit Flex Spending Account (FSA) contributions to \$2,500 per year

EFFECTIVE WITHIN THE NEXT 12 MONTHS

- Beginning July 1, 2010, a 10% tax will be added to indoor tanning services
- Eligible seniors may receive a \$250 rebate to bridge the coverage gap in the Medicare prescription drug benefit
- Uninsured adults with pre-existing medical conditions will have the opportunity to obtain coverage under a new program until 2014, when the new state-based insurance exchanges are set to begin operating
- Facilitate administrative simplification to lower health system costs

EFFECTIVE AT A LATER DATE

- Small business (with fewer than 25 employees) may receive a tax credit to help them provide employee coverage
- Individual premium credits available for those with incomes between 133% and 400% Federal Poverty Level (FPL) to purchased insurance through the Exchange
- Effective in 2018, an excise tax is imposed on insurers of employer-sponsored “Cadillac” plans equal to 40% of the value of the plan that exceeds \$10,200/individual and \$27,500/ family
- Increased funding and training for health care workers
- Increase transparency by requiring employer W-2 reporting for value of employee coverage provided by employer
- Develop uniform coverage documents so consumers can make better comparisons when shopping for health insurance
- Require coverage of preventative services and immunizations
- Cap insurance company non-medical, administrative expenditures
- Ensure consumers have access to an effective appeals process and assistance in navigating the appeals process
- Create a temporary re-insurance program to support coverage for early retirees
- Establish an internet portal to assist Americans in identifying coverage options

HEALTH INSURANCE MARKET REFORM

By the year 2014, more insurance reforms will be implemented to eliminate medical underwriting and pre-existing condition exclusions across individual and small group insurance markets in all states. Insurers will be prohibited from denying coverage or setting rates based on gender, health status, medical condition, claims experience, genetic information, evidence of domestic violence, or other health-related factors. Premiums will only vary according to family structure, actuarial value, tobacco use, participation in a health and wellness program, and by age (by not more than three to one, i.e., the premium for older individuals may be no more than 3X the premium for young individuals).

EMPLOYER MANDATE

Beginning January 1, 2014, any employer with more than 50 full-time employees that does not offer coverage and has at least one full-time employee receiving a premium assistance tax credit will pay an assessment of \$750 per full-time employee (the first 30 employees are excluded from assessment). An assessment is levied if:

- At least one full-time employee receives the premium assistance tax credit due to unaffordable employer-sponsored coverage
- OR-
- At least one full-time employee receives the premium assistance tax because employer-sponsored coverage does not cover 60% or more of the total health care costs

Employers not meeting the minimum essential coverage criteria will pay the lesser of \$3,000 for each of those employees receiving credit or \$750 each, for all employees. A grandfather provision permits employers to continue offering coverage already offered and/or provided. In addition, employers with more than 200 employees must *automatically* enroll all new full-time employees in coverage.

Exempt: Employers with 50 or fewer employees.

INDIVIDUAL MANDATE

Beginning in 2014, all American citizens and legal residents will be required to maintain “qualifying health coverage” or pay a phased-in penalty (\$95 in 2014, \$495 in 2015 and \$750 in 2016), or up to two percent of income by 2016 (whichever is greater), with a cap at the national bronze plan premium. Families will pay half the amount for children up to a cap of \$2,250 for the entire family. After 2016, the dollar amounts will increase by the annual cost of living adjustment.

Exempt: religious objectors; those unable to afford coverage (lowest cost option exceeds 8% of individual's income); taxpayers with incomes less than 100% FPL; Indian tribes members; those who receive a hardship waiver; individuals not lawfully present; incarcerated individuals; and those not covered for less than three months. A grandfather provision exists to allow those who already have coverage and would like to retain said coverage to do so.

AMERICAN HEALTH BENEFIT EXCHANGE

By 2014, each state will establish an Exchange to help individuals and small employers to obtain coverage. The new American Health Benefit Exchange and Small Business Health Options Program (SHOP) will offer qualified, accredited health plans with no out-of-pocket requirements exceeding those of Health Savings Accounts (\$5,950/individual and \$11,900/family in 2010), and deductibles in the small group market cannot exceed \$2,000 for an individual and \$4,000 for a family. Coverage will be offered at four levels with actuarial values defining how much benefit the insurer pays: Platinum-90%; Gold-80%; Silver-70%; and Bronze-60%. A less costly catastrophic plan will be offered for those under the age of 30 who are exempt from the individual responsibility requirement. Individuals qualified to receive tax credits for Exchange coverage must not be eligible for affordable, employer-sponsored insurance or public insurance coverage. Undocumented immigrants are also ineligible for premium tax credits.

THE HEALTH CARE AND EDUCATION AFFORDABILITY RECONCILIATION ACT OF 2010 ("CORRECTIONS" BILL)

The Senate is expected to pass the reconciliation or "corrections" bill expeditiously. Once signed, President Obama will sign this bill into law. The corrections bill will modify provisions of the health reform bill discussed herein. Some potential changes should the bill be signed "as is" are as follows:

- Individual assessment for the uninsured lowered from \$495 to \$325 in 2015 and from \$750 to \$695 in 2016, and raises the alternative payment amount from 0.5% to 1% in 2014, 1% to 2% in 2015, and 2% to 2.5% in 2016
- Employer assessment for not offering qualified coverage to full-time employees will be \$2,000 per full-time employee
- Reduces "Cadillac" tax by 80% by delaying application until 2018
- Delay annual FSA contribution limitation until 2013
- Pre-existing limitation exclusion prohibited after 2014 for group health plans
- Non-dependent children up to age 26 may only be covered on their parents' group health plan prior to 2014 if they are not eligible for their own employer-sponsored coverage

ACTION PLAN

Barney & Barney is dedicated to keeping abreast of all issues surrounding health care reform. The journey is long. Even upon the President signing these new bills into law, the process is just beginning, with many provisions not set to have regulations written yet or the rule to be implemented for years to come. Once the bills are signed into law, additional rules and regulations must be issued to define and clarify the new law. We will notify you when the regulations are issued to notify you of the actions required. At this time, there is no action to be taken. For more details, see the bills at:

The Patient Protection and Affordable Care Act, H.R. 3590: <http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.3590>

The Health Care and Education Affordability Reconciliation Act of 2010, H.R. 4872: <http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.4872>