



# Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010

## **INSURANCE PROVISIONS AFFECTING COST**

### **Expanded dependent coverage**

- Adult child under 27 can receive coverage on a parent's employer health plan tax free to the parent and can have his or her expenses reimbursed tax free from a flex spending account, health reimbursement arrangement (HRA), or health savings account (HSA).
- An adult child must be covered on a parent's employer health plan until they turn age 26.

### **Medical loss ratios**

- Insurers are required to pay out 80% to 85% of premiums for claims.
- Any excess is rebated to the employer.
- Employer must rebate to employees (taxable income) or give employees a premium holiday.

### **Cost-sharing limits**

- Deductibles, coinsurance, and copayments (but NOT premiums) cannot exceed new limits (\$7,150 for single/\$14,300 for family for 2017; \$7,350 for single/\$14,700 for family for 2018).

### **Limited waiting period**

- Waiting period to enroll in a group health plan cannot exceed 90 days.

### **Annual or lifetime limits**

- Can no longer have an annual or lifetime limit on coverage for an individual; this includes health insurance, self-funded health plans, HRA, and certain employer-funded health flex spending accounts (health FSA).
- Must provide full coverage for preventive services.

### **Guaranteed issue/renewal**

- Health insurers must accept every individual and every employer who applies for coverage.
- Does not apply to self-insured plans.

### **Rating discrimination**

- Health insurers cannot charge higher premiums based on health issues.
- Rating differences can be charged based only on:
  - Geography
  - Family size
  - Age discrimination can be no more than 3:1
  - Tobacco use discrimination can be no more than 1.5:1
- Does not apply to self-funded plans.

### **Minimum essential health benefits**

- 10 essential health benefits must be covered in all individual and small-employer health insurance policies; does not apply to self-funded plans.

### **Discrimination rules – delayed**

- Fully insured plans will be subject to the same nondiscrimination rules that apply to self-insured plans for eligibility to participate and eligibility for benefits.
  - Excess benefits will be permitted but taxed in self-insured plan.
  - Excess benefits will be prohibited in fully insured plans.

## **FEES AFFECTING COST**

### **Annual fee on drug manufacturers and importers**

- \$4 billion in 2017, \$4.1 billion in 2018, and \$2.8 billion thereafter.

### **Patient Centered Outcomes Research fee**

- Form 720 excise tax return due (from employer) by July 31 each year for self-insured plans (insurer files for fully insured plans).
- \$1 per covered life for first-year filing, \$2 per covered life for second-year filing, \$2.08 per covered life for third-year filing, \$2.17 per covered life for fourth-year filing, and indexed for medical inflation rate thereafter.

### **Excise tax on medical device manufacturers**

- 2.3% tax on sales of medical devices for human use.
- Excludes eyeglasses, contacts, and hearing aids.

### **Flat excise tax on health insurers**

- Flat dollar tax of \$13.9 billion for 2017, and \$14.3 billion in 2018.

### **Excise tax on high-cost employer coverage**

- 40% tax to insurance company for premiums exceeding \$10,200 for single and \$27,500 for family (additional \$1,650 and \$3,450, respectively, if over age 55 or have high-risk coverage).
- Employer pays the tax for self-insured plans.
- Employer pays the tax on excess FSA or HRA benefit. (Cost of FSA, HRA, or HSA is added to premiums to see whether there is excess coverage.)

## **INDIVIDUAL PROVISIONS AFFECTING EMPLOYERS**

### **Over-the-counter medicines**

- Can no longer be reimbursed tax free from flex spending accounts, HRAs, or HSAs unless prescribed by a doctor.

### **HSA penalty**

- Penalty for withdrawals for nonmedical expenses increased to 20%.

### **Additional Medicare tax**

- Additional Medicare tax will apply to the employee only on wages and self-employment income exceeding \$200,000 for single and \$250,000 for joint filers.
- Employer does not match this Medicare tax.
- Self-employed can't deduct the additional tax.
- Employers will collect from wages and remit to IRS, same as current Medicare tax.
- Applies to wages AND deferred compensation subject to Medicare tax once W-2 income exceeds \$200,000.

### **Surtax on unearned income**

- 3.8% tax on the lesser of:
  - Net investment income (interest, dividends, capital gains, annuities, rents, and royalties).
  - AGI over the threshold (\$200,000 single, \$250,000 married joint).

### **Higher medical expense deduction threshold**

- Threshold over which itemized deduction for medical expense is permitted is now 10%.

### **Health FSA limit**

- \$2,600-per-year limit applies to medical flex spending accounts (not HRAs) for 2017.

### **Penalty to individuals not carrying insurance (Individual Mandate)**

- Penalty applies to U.S. citizens and legal residents who do not have minimal essential coverage (Medicare, Medicaid, CHIP, employer-sponsored plan, or individual health coverage).

- Penalty is \$695 for taxpayers plus \$695 for each dependent (for minors, penalty is half the adult penalty), capped at \$2,085 per family, or it is 2.5% of household income if greater.
- Penalty is paid on an individual's tax return, Form 1040, Line 61. Worksheet to claim exemption is on new Form 8965. Penalty is calculated on worksheet in Form 8965 instructions.
- Exceptions: Under poverty level (they are Medicaid eligible), Indian tribes, incarcerated, religious objections, or if no individual tax return is filed.

#### **Refundable tax credit to individuals**

- Low and moderate income individuals (between 100% and 400% of poverty level) will receive a refundable tax credit to buy health insurance on a state exchange or will receive a subsidy when purchase insurance on a state exchange (between \$11,770 and \$47,080 for single and between \$24,250 and \$97,000 for family of four – 2016 levels).

#### **State insurance exchange coverage**

- Health insurance premiums for an employer group plan (SHOP coverage) that is paid to a state insurance exchange are a qualified cafeteria plan benefit. Individual exchange coverage is not a qualified cafeteria plan benefit.
- Premium payments to state exchanges for SHOP coverage are EXPECTED to be paid through payroll deduction, regardless of whether the employer has a cafeteria plan.

## **EMPLOYER REPORTING AND TAX PROVISIONS**

**Small-employer health insurance credit; few employers qualify; available now only if employer coverage purchased through a state insurance marketplace SHOP program**

- Tax credit for employers that provide health insurance to their employees.
- Phased out up to 25 FTEs and up to \$50,000 average annual compensation.
- 50% credit and available for only a maximum of two consecutive years. Nonprofits receive 35% credit used to offset payroll tax deposits.

#### **W-2 reporting of health insurance benefits**

- Memo box only for cost of health insurance coverage, Box 12, Code DD.
- Currently, only if >250 W-2s.
- Expected to be expanded to all employers in near future.

**Penalty for not offering health coverage (Employer Mandate/Play or Pay) effective January 1, 2015, if 100 or more FTEs or January 1, 2016, if 50 or more FTEs**

- Large employers (50 or more FTE employees; full time = 130 hours per month).

- Month-to-month penalty, but standard look-back measurement periods can be used to lock in full-time or part-time status for up to 12 months.
- Penalty if one of the following:
  - Don't offer health coverage to substantially all full-time employees.
  - Offer minimal essential coverage that is unaffordable (exceeds 9.66% of employee's household income).
  - Offer minimal essential coverage, but it is not "minimum value coverage" (pays less than 60% of the actuarial claims under the policy).
- AND any full-time employee purchases insurance through a state exchange and receives a tax credit or subsidy.
- PENALTY equals \$2,160 (\$2,260 for 2017) times the number of full-time employees (less the first 30), if don't OFFER coverage to substantially all (95%) full-time employees.
- IF OFFER, but coverage is unaffordable or is not minimum-value coverage or 5% not covered (see previous bullet) get subsidized coverage, employer pays penalty of \$3,240 (\$3,390 for 2017) times the number of employees who purchase coverage on a state exchange and who actually receive a tax credit or subsidy.

#### **Code Section 6056 Information Return reporting (Form 1095-C)**

- 60 days following calendar year end is due date for each annual filing of calendar-year data.
- Employers with over 50 FTE employees will need to file (no 2015 transition rule).
- Must report data on employees, the employee and dependents offered health coverage (by month) – names, addresses, and social security numbers.
- To be used by IRS for individual subsidy eligibility and Employer Mandate penalty assessment through matching of data with state exchanges. It will be an IRS assessment and then an appeals process if the employer does not agree. No tax return to be filed to pay the penalty.
- Employees must receive notice that they were reported each time the filing is done (January 31 each year). Form 1095-C used for IRS filing goes to each employee.