



The Healthcare Law April 19, 2010

This healthcare bill, recently made law, is a comprehensive overhaul that increases coverage to 94% of Americans and makes sweeping changes to our current healthcare system. There are new provisions in the law for both individuals and employers. Although the law is comprehensive, we address the changes that will affect small employers and their employees.

Individual Requirements:

Requires all U.S. citizens to obtain the minimum essential coverage or pay a penalty of \$95 in 2014, \$325 in 2015, \$695 in 2016 and \$750 in 2017 and indexed thereafter. There will be a penalty cap of \$2,250 per family.

Exemptions to the penalty will be granted for financial hardship, religious objections, and those with income below the tax filing threshold (in 2009 the threshold for taxpayers under age 65 was \$9,350 for singles and \$18,700 for couples).

Beginning in 2018, there will be a 40% excise tax on individual high-cost health plans costing more than \$10,200 for individuals and \$27,500 for families.

Employer Requirements:

Employers under 50 full-time employees:

Exempt from required coverage and penalties.

Employers more than 50 full-time employees who do not offer coverage:

Employers with over 50 full-time employees that do **not** offer healthcare coverage will be required to pay a fee of \$2000 per total number of full-time employees if they have at least one full-time employee receiving premium assistance in the form of a tax credit. For purposes of this calculation, the law exempts 30 employees from the total number of full-time employees.

Employers with over 50 full-time employees who *offer* healthcare coverage:

Employers with over 50 full-time employees must offer “affordable” coverage. This means the plan must have an actuarial value (AV) of at least 60% or employee premiums payments cannot exceed 9.5% or more of the employee’s income to avoid fees. If an employer does not offer “affordable” coverage and one of their employees receives premium assistance in the form of a tax credit, the employer must pay \$3,000 per employee who receives that assistance.

How does an employee qualify for premium assistance?

- Individuals are eligible for premium assistance in the form of a tax credit if their coverage is unaffordable; i.e. their plans have an AV of less than 60% *or* if the employee share of the premium exceeds 9.5% of their income.
- Individuals and families whose employer does not offer coverage and whose income is between 133-400% the Federal Poverty Level (FPL) are eligible to receive premium assistance in the form of a tax credit to purchase insurance through the exchanges. The credits will be based on a sliding scale according to premium contributions and percentage of income.

Employers more than 200 full-time employees:

Employers with 200 or more full-time employees will be required to automatically enroll new full-time employees (and their dependents) in one of their employer-sponsored benefit plans. It is important to note that employees can opt out.

Other Employer Requirements:

Free Choice Vouchers:

- Employers with more than 50 full-time employees who offer coverage but not through an exchange will be required to offer “free choice vouchers” to employees with income less than 400% of the Federal Poverty Level whose share of the premium exceeds 8% of their income and who decide to enroll in a plan offered through the exchange.
- Free Choice Vouchers will equal the amount the employer would have paid for coverage under their plan.
- Employers who offer vouchers to employees are not subject to penalties for those employees who receive premium assistance in the form of tax credits.

Insurance Market Reforms:

Beginning in 2010, the law puts in place reforms to the current small group insurance market and changes the way insurers determine eligibility. In addition, there will be a “market shift” to pool the self-employed, non-profits and small businesses into the same group under new marketplaces called exchanges.

Starting September, 2010 (Six months after enactment) the law:

- Requires coverage of adult children up to 26
- Prohibits pre-existing condition exclusions for children up to 19
- Prohibits individual and group health plans from placing lifetime limits on coverage
- Prohibits rescinding coverage (except in the case of fraud)
- Prohibits deductibles greater than \$2,000 for individuals and \$4,000 for families
- Requires insurers to expend no less than 80% on medical coverage for plans in the individual and small group market
- Establishes a temporary national high-risk pool for individuals with pre-existing conditions who have been uninsured for at least 6 months.

Starting January 1, 2014 the law:

- Requires individuals and small businesses to be guaranteed health coverage and have the ability to renew coverage annually
- Allows premium rating based only on age (3:1 ratio); premium rating area; family composition; and tobacco use.
- Prohibits pre-existing condition exclusions (there will be a phase-out of the exclusion period)
- Prohibits annual limits on benefits

What's in it for Small Business?

New Marketplaces to Shop for Healthcare Coverage:

By 2014, all 50 states will be required to establish state-based exchanges. These state-based exchanges, or marketplaces will be offered to employees of small businesses (including non-profits) up to 100 full-time employees, the self-employed and individuals.

These pools will be run by states. States may form regional exchanges or allow more than one exchange to operate in a state.

These state-based exchanges will also include private insurance plans, multi-state health plans, and Consumer Operated and Oriented Plans (CO-OPs). There will be no public option, however, each state exchange will be required to offer at least two multi-state health plans negotiated by Office of Personnel Management (OPM). CO-OPs are non-profit, member driven and owned health insurance issuers that will offer plans through the exchanges.

Beginning in 2016, states will be allowed to form healthcare choice compacts, where any private insurer can sell policies in any participating state.

Small Business Eligibility for the Exchanges:

Individuals, the self-employed and small businesses up to 100 full-time employees will be eligible to obtain coverage through state exchanges. However, before 2016, a state may limit pool to businesses up to 50 employees. Beginning in 2017, the state exchanges will expand to small businesses more than 100 employees.

It is important to note that small employers eligible to obtain coverage in an exchange who grow beyond the employee limit will continue to be treated as a small employer and eligible to participate in their qualified health plan until the employer decides not to enroll in that plan.

Benefits Under the Exchanges:

The exchanges will include private insurers that offer four benefit categories of qualified health plans. The four levels of coverage for benefits will be: bronze, silver, gold and platinum.

- Benefit levels include:
 - Bronze plan covers 60% of the benefit costs of the plan
 - Silver plan covers 70% of the benefit costs of the plan
 - Gold plan covers 80% of the benefit costs of the plan
 - Platinum plan covers 90% of the benefit costs of the plan

- All insurance plans within and outside of the exchanges must include these services: ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management, and pediatric services, including oral and vision care.

Increased Coverage Options:

The law establishes simple cafeteria plans to allow small employers and the self-employed to offer tax-free benefits.

Assistance to Small Businesses to Reduce Coverage Costs: Tax Credits

The law contains small business tax credits to help offset the cost of providing healthcare coverage to employees.

Starting in 2010, a three-year small business tax credit will be available to businesses up to 25 employees and average wages below \$50,000. The full tax credit, 35% of the employer's contribution toward the employee's health insurance premium, would be available to small businesses with 10 or fewer employees with average wages below \$25,000. Employers must contribute at least 50% of the total premium cost to be eligible for a tax credit.

In 2014, a tax credit will be available to businesses up to 25 employees and average wages below \$50,000 who purchase health coverage for their employees through state exchanges. The maximum allowable tax credit will increase to 50% of the employer's contribution, and will be available to small businesses with 10 or fewer employees with average wages below \$25,000. Employers must contribute at least 50% of the total premium cost to be eligible for a tax credit.

The employer would cover the premium costs for their employees during the year and receive the tax credit at the end of the year when filing income taxes.

These small business tax credits will be applicable to tax exempt small businesses, 501(c)(3)s (i.e. charitable organizations), but the maximum credit will be limited to 25% of the employer's contribution toward the employee's health insurance premium in 2010-2013, and will increase to 35% in 2014.

Small Business Wellness Programs:

The law establishes a 5-year grant program to businesses up to 100 employees (who do not currently provide a workplace wellness program) to establish a comprehensive workplace wellness program. Eligible small employers would apply for this grant program.

A comprehensive wellness plan is one that includes:

- 1) Health awareness initiatives;
- 2) Efforts to maximize employee engagement;
- 3) Initiatives to change unhealthy behaviors and lifestyle choices; and
- 4) Supportive environment efforts.

Resources:

White House site on Healthcare Reform

<http://www.whitehouse.gov/issues/health-care>

Government healthcare website managed by HHS

<http://www.healthreform.gov/>

FAQs on the Small Business Healthcare Tax Credit

<http://www.irs.gov/newsroom/article/0,,id=220839,00.html>

Kaiser Family Foundation

<http://healthreform.kff.org/>