



Changes Needed to the PPACA:

Whether or not the law is repealed, changes are needed prior to 2013 to protect jobs and to prevent adverse consequences for employers and their employees.

The Chamber believes real, market-based solutions to lower the costs of health care, cover more of the uninsured, and improve the quality of care are long overdue. There are many aspects of PPACA that left broad interpretation up to the various agencies. In the rulemaking and implementation process, we have identified several provisions that Congress should amend to minimize the disruption that employers and employees will experience due to the new law.

Priority Changes to be Addressed:

1099 Business Paperwork Mandate	This provision will not raise the \$17B it was intended to, and repeal is bipartisan. Job growth is hindered by excessive, pointless paper work. Members should cosponsor Sen. Johanns' bill and Rep. Lungren's H.R. 4 and Congress should act quickly to repeal as this will go into effect in 2013.
Employer "Free Rider" Mandate	Until PPACA, providing health care was a voluntary benefit that was offered by employers. Employers should continue to have the discretion to decide if they can or will offer health insurance benefits, and should not be penalized. This provision incentivizes businesses to get small and stay small, it creates great uncertainty, and it may be hurting job growth already.
FSA/HSA Changes	Eliminate the annual caps placed on FSA contributions, and restore the ability of HSA/FSA/MSA account owners to purchase over-the-counter items without prescriptions. These provisions are counterproductive and will create more pointless doctor visits, limiting how consumers can spend their own money. Proactively, Congress should improve HSAs by making them more flexible and allowing HSA dollars to be used to pay insurance premiums.
Medical Liability Reform	Congress must enact meaningful medical liability reform that focuses health care dollars on quality care, not on unnecessary tests, trial lawyer fees, and malpractice insurance premiums. Options include expert panel pre-screening of cases, specialized health courts, safe harbors for providers following best-practices, and caps on noneconomic damages.
"Medicare" Income and Investment Taxes	Roll back tax increases on high-income individuals and small businesses to pre-PPACA rates. Eliminate the investment tax. These taxes stifle economic growth by reducing investment and transferring capital from small businesses to the government.
Insurance and Medical Device Taxes	Eliminate taxes that will be passed through from fully-insured plans to their small business customers, and taxes that will be passed from device manufacturers to providers, to insurers, and finally to consumers. These taxes will both increase costs to consumers, and taxes on devices threaten American jobs in the medical device manufacturing industry.
Part D Subsidy – Elimination of deductibility	Restore the Medicare Part D subsidy as negotiated under the Medicare Modernization Act. The score for this provision did not realistically assume firms will drop retiree coverage and the government will pay – using it as a pay for made little sense because in the end government will pay more.

CLASS Act (Government Long-Term Care) Eliminate the CLASS Act before it begins paying out claims, prohibit general revenue transfers to CLASS, and establish a draw-down mechanism for when it inevitably goes broke.

Provisions to Amend:

- Grandfathering** Require that changes to plans be permitted without losing grandfathered status if these changes maintain the general structure of a plan.
- Minimum Loss Ratios** Establish cost-control as a health-related cost, and limit categorization of “administrative” expenditures to include only overhead items with negligible impact on controlling plan enrollees’ health or premiums.
- Adult Dependents** PPACA allows adult children to stay on their parent’s plans until age 26. Congress should clarify that this provision does not apply to independent adults, adults with employer-sponsored coverage offers, married adults with spousal coverage offers, high-income individuals, etc.
- Affordability Subsidies** Roll back subsidies to middle-class Americans, from 400% to 200%. This should pay for rolling back PPACA’s tax increases accordingly.
- Small Business Health Care Tax Credit** Allow businesses with up to 50 employees to be eligible for tax credits, and increase income limitations. Change scaling of the credit. Require CBO to consider costs of individual subsidies more seriously in scoring this change.
- Small Business Wellness Provisions** Transform the small business wellness grant program, which will likely go un- or under-funded, into Senator Harkin’s proposal for small business wellness tax credits. Wellness improves health and prevents hospitalizations.
- Exchanges** Exchanges need to be amended to allow for state variation. Congress must guarantee currently operating exchanges, such as Utah, which are market-based, can continue to exist as is and to be considered a model for other states.
- Wellness Premium Variation** Permanently allow premium variation of up to 50% based on participation in a wellness program. This will inject personal responsibility without adversely affecting those with chronic conditions.
- Wellness Provisions** Include language to balance ADA and GINA with wellness provisions. Specifically, treat the current HIPAA 20% (soon to be 30%) premium variance as "voluntary" program for purposes of Title I and II of GINA, as well as the ADA. Also remove the GINA rules that prohibit the collection of individual and family medical history, as long as the collected history has a demonstrable predictive impact on future health status for the individual.
- COBRA** After 2014, eliminate COBRA. COBRA would be unnecessary if there are subsidies and guaranteed issue, modified community rating, etc.
- SIMPLE Cafeteria Plans** Allow all business owners to participate in cafeteria plans, return to original bill language before JCT changes (including nondiscrimination provisions). This is a tax-parity and small business fairness issue.
- W-2 Benefits Reporting** Eliminate W-2 reporting of the “value” of health insurance, which will lead to apples-to-oranges comparisons and could facilitate taxing benefits.