Healthcare Reform Law: Timeline for Small Business

The new healthcare reform law will be implemented over much of the next decade. From 2010 to 2013, changes largely involve new taxes, fees and mandates on individuals and small business. Most healthcare system changes begin in 2014 and later years. This document presents a timeline of some major provisions.

2010

- **Small business tax credit:** A temporary small business tax credit is available for some firms who provide qualified health coverage. However, the credit puts small business owners through a series of complicated tests to determine the actual amount of the credit. (1) Very few small firms will receive the full credit (only firms with 10 employees or less). For firms with 11-25 employees, the credit is reduced per employee. Firms with more than 25 employees get NO credit. (2) Only firms who pay their workers an average of $25,000 or less are eligible for the full credit. The credit is reduced as the average wage goes up, stopping when it reaches $50,000. (3) Only firms covering 50% or more of insurance costs will be eligible. (4) The credit is only available for a maximum of six years. There are additional provisions for start-up firms beginning business after the enactment of this law.
- **Age 26:** Children may stay on their parents' policies until age 26.
- **Tanning salon tax:** A 10% excise tax on indoor tanning services begins July 1.
- **Economic substance doctrine:** The bill alters long-standing judicial doctrine in ways that could reduce tax-planning options and increase litigation.

2011

- **W-2 reporting:** Employers will be required to report employees' health benefits on W-2s.
- **Brand-name drug tax:** Manufacturers and importers of brand-name drugs will pay a tax of $2.5 billion in 2011, $3.0 billion per year for 2012 through 2016, $3.5 billion for 2017, $4.2 billion for 2018, and $2.8 billion for 2019 and thereafter.
- **HSA & FSA limits:** Consumers are prohibited from using HSA and FSA funds to purchase non-prescribed items, including over-the-counter medication (except insulin).
- **HSA penalty:** The penalty for using HSAs for non-qualified purchases increases to 20%.
- **Federally subsidized long-term care:** Employers may voluntarily participate in the CLASS long-term care program. Participating firms' employees will be automatically enrolled and subject to payroll deductions unless they choose to opt out. This program will almost certainly cost the federal government far more than what the payroll deductions will cover. So this entitlement is yet another unfunded liability to add to federal deficits for decades to come.

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- **Cafeteria plan safe harbor rules added:** Employers will have to meet minimum contribution requirements to receive protection from nondiscrimination requirements under cafeteria plans.

2012

- **1099 reporting:** Businesses will have to send Form 1099s for every business-to-business transaction of $600 or more – a tremendous new paperwork burden for small business.

2013

- **Medical device tax:** Manufacturers and importers of certain medical devices will face a 2.3% excise tax.
- **Fewer deductible medical expenses:** New limits are placed on the deductibility of medical expenses on individual income tax returns. This provision raises the 7.5% AGI floor on medical expenses deductions to 10%. The AGI floor for those 65 and older (and their spouses) remains at 7.5% through 2016.
- **"Medicare" payroll taxes:** The Medicare payroll tax on wages and self-employment income in excess of $200,000 ($250,000 joint) will increase to 2.35% and is not indexed to inflation. This tax marks the first time that funds designated for Medicare will be diverted elsewhere – specifically to pay for the insurance policies of people under the Medicare age. This establishes a precedent for treating this payroll tax as a revenue raiser for other purposes.
- **"Medicare" investment tax:** In addition to the payroll tax, there will be a 3.8% tax on investment incomes for higher-income taxpayers ("higher-income" is based on wage and self-employment income plus other factors). Like the payroll tax, these funds are officially designated for Medicare but will be spent elsewhere.
- **FSA limits:** Cafeteria plan FSAs will be limited to a maximum of $2,500 (inflation-adjusted after 2013).

2014

- **Small business health insurance tax:** An annual fee on health insurance providers will be passed on to consumers. This tax will fall on the vast majority of plans that small businesses purchase, but not on self-insured plans (such as most big business and labor union policies). The fee is $8 billion for 2014, $11.3 billion for 2015 and 2016, $13.9 billion for 2017, $14.3 billion in 2018. For years beginning 2019, the $14.3 billion figure will be adjusted upwards for the growth in medical costs.
- **Health insurance exchanges:** Exchanges open to individuals and small businesses with up to 50 employees. (An individual state may opt to increase that number to 100.)
- **Premium credits:** The federal government begins subsidizing individuals up to 400% of the federal poverty line – around $88,000 today for a family of four. These credits will subsidize individuals purchasing insurance in exchanges (but not those with traditional employer-sponsored plans).
- **Medicaid eligibility expands:** The income level for Medicaid eligibility rises, bringing millions of new people into this federal/state program for lower-income individuals. Initially, the federal government will absorb the entire debt or taxation burden of this expansion, with states facing financial pressure in later years. Combined with a related expansion in CHIP (the Children's Health Insurance Program), the Medicaid expansion will account for nearly one-half of the total increase in insurance coverage.
- **Medicare cost-cutting:** An independent Payment Advisory Board is created to recommend legislation to reduce the growth rate of Medicare costs.

- **Benefits package:** Federal officials must define an essential benefits package with which all insurance policies must comply. (This provision includes restrictions on cost-sharing.)
- **Individual mandate:** Starting in 2014, all U.S. citizens and legal residents must have "qualifying" health coverage or pay penalties. For an individual, the penalty begins in 2014 at the greater of $95 or 1.0% of household income. In 2015, it grows to $325 or 2.0%. In 2016, it reaches $695 or 2.5%. (For families, the figure will be $2,085.) After 2016, the amount will rise by a cost-of-living adjustment.
- **Employer mandate:** The bill contains a complex employer mandate requiring some firms to provide insurance, pay penalties or both. The penalties are based on (1) the number of full-time (or part-timers counted as full-time equivalent) employees, (2) whether or not the firm offers coverage, and (3) whether or not one or more employees qualify for government subsidies toward the purchase of health insurance. An employee qualifies for a subsidy if his or her household income is below 400% of the federal poverty line ($88,000 for a family of four today). Here are some of the rules:
  - More than 50 full-time employees. Does not offer insurance. One or more employees receiving premium subsidies. Penalty = $2,000 per full-time employee (minus the first 30 employees).
  - More than 50 full-time employees. Offers insurance. One or more employees receiving premium subsidies. Penalty = lesser of $3,000 per subsidized employee or $2,000 per full-time employee (minus the first 30 employees).
  - More than 50 full-time employees. Offers insurance. Has no employees receiving premium subsidies. No penalty on employer.
  - 50 or fewer full-time employees. No penalty.
  - If an employee's household income is below 400% of the federal poverty line and his or her insurance premium falls between 8% and 9.8% of household income, the employer must offer the employee a voucher (equal to the amount the employer contributes toward an employee's premium) to purchase insurance in the exchange. An employee meeting these characteristics will not trigger the employer penalties.
  - Part-time employees' hours will be converted into full-time equivalents for purposes of these calculations. For example, if 6 employees each work 5 hours per week, they will count as if the firm had one additional full-time employee (calculated monthly).
  - Employers with more than 200 employees will be required to auto-enroll employees into the employer's health plans, though the employee may opt out.
  - There are extra penalties for firms who have a waiting period of more than 90 days before employees are eligible for insurance.

2018

- **Cadillac tax:** The government will collect a so-called "Cadillac Tax" – a 40% excise tax on health coverage in excess of $10,200 annually for an individual or $27,500 annually per family. The threshold amounts are higher (by $1,650 for individuals, $3,450 for families) for certain retirees over 55 and for employees in high-risk professions. The threshold amounts may be increased in response to higher medical costs prior to 2018 and for firms that have higher costs due to the age and gender of their employees. This tax is indexed for general inflation (not healthcare costs), so as healthcare costs rise, more and more people will be swept into this tax each year.