Health Care Reform Acts

Two pieces of landmark legislation concerning health care were recently passed. On March 21 the House of Representatives passed the Patient Protection and Affordable Care Act (the Patient Protection Act). This was followed by passage of the Health Care and Education Reconciliation Act of 2010 (the Reconciliation Act) on March 25. The President has already signed the Patient Protection Act into law and is expected to sign the Reconciliation Act into law without delay.

Together, these two pieces of legislation drastically change health care in the United States. The central goals of this massive reform are to provide health care insurance to the majority of currently uninsured individuals and to curb rising health care costs. Over time, most individuals will be required to either have health insurance or pay a fine. There will be some subsidies and credits available to certain individuals to help defer the cost of coverage. Employers with 50 or more employees will either have to provide minimum essential coverage or will be liable for an additional tax. In order to raise revenue to offset some of the costs, there will be additional Medicare tax paid by high income individuals, there will be a tax on high cost insurance plans and there will be certain fees on various health related industries. However, it will take up to 10 years for all aspects of the law to kick in. Below is a timeline of when the various benefits, protections, and costs will take effect.

2010 Unmarried dependent children may remain on their parent's insurance policy up to age 26.

- Insurers will not be permitted to deny children coverage based on pre-existing conditions.
- Individuals who have been unable to obtain coverage due to pre-existing conditions will be able to purchase it from special high-risk insurance pools.
- Medicare recipients who fall into the prescription drug coverage gap will receive a $250 rebate.
- Insurers will no longer be able to cancel policies except in cases of fraud nor will they be able to set lifetime coverage caps on policies.
- A new tax credit will be available for 2010 (and 2009) to encourage investments in new health care therapies.
- A tax credit will be available to small businesses that have fewer than 25 full-time equivalent employees and that have average annual wages of less than $50,000, if they offer health insurance to those employees. The credit will be up to 35% of the employer's contribution toward the employees' health insurance premium.
- Medicare acute hospital inpatient payments are reduced .25%. Numerous additional Medicare hospital payment reductions are scheduled over the next ten years.
- 501(c)(3) hospitals will be required to report four additional items related to charity care and community needs in order to retain not-for-profit status.
- The qualification requirement for certain tax deductions based on claims and expenses, and unearned premium reserves, for some health organizations, including Blue Cross and Blue Shield organizations, has been modified.
- The adoption credit will be increased by $1,000, become a refundable credit and will continue through 2011. The adoption assistance exclusion will also increase by $1,000.

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- The economic substance doctrine, which denies tax benefits unless the transaction generating the benefit changes the taxpayer's economic position in a meaningful way other than through its federal tax position, is codified for transactions entered into after the date of enactment. Violations are subject to an automatic 20%-40% penalty.

2011 The pharmaceutical industry will begin paying annual flat fees starting at $2.5 million dollars. The fees would not apply to companies with sales of branded pharmaceuticals of $5 million or less.

- Medicare Part D recipients who fall into the prescription drug coverage gap will receive a 50% discount of their brand name prescriptions.
- Employers will have to start reporting the value of employees' health care benefits on their W-2's.
- A new benefit plan to be known as a Simple Cafeteria Plan will be established so that small businesses can more easily provide benefits to their employees.
- Deductible medical expenses for health reimbursement accounts (HRAs), flexible savings accounts (FSAs) and Archer medical savings accounts (MSAs) will be the same as deductible medical expenses for purposes of itemized deductions on Schedule A of Form 1040, except for doctor prescribed over-the-counter medicine.

2012 Non-profit insurance co-ops will be created to compete with for-profit insurers.

- Physicians and hospitals will be encouraged to form "accountable care organizations." These organizations would be quality driven and would attempt to find more efficient ways of paying providers who care for Medicare patients.
- Businesses that pay more than $600 during the year to corporate providers of property or services will have to file an information report with the provider and the IRS.

2013 The Hospital Insurance payroll tax will increase from 1.45% to 2.35% on earned income in excess of $200,000 for individuals and $250,000 for families.

- A new Unearned Income Medicare Contribution surtax of 3.8% on investment income will also be imposed on individuals with adjusted gross income (AGI) above $200,000 and joint filers with AGI above $250,000. Distributions from qualified retirement plans would be exempt from the tax.
- Annual contributions to flexible spending accounts for medical expenses will be capped at $2,500. The limit will be indexed for inflation thereafter.
- The threshold for deducting medical expenses as an itemized deduction is raised to amounts greater than 10% of AGI. However, people over age 65 can continue to deduct medical expenses in excess of 7.5% of AGI through 2016.
- If 25% or more of the premium income an insurer receives does not meet the minimum essential coverage requirements, deductible compensation to a high-level employee of the insurer will be limited to $500,000, with certain provisions for deferred compensation.
- Hospitals will be eligible for Medicare value-based purchasing payments.
- Hospitals may receive a reduction in Medicare payments based on their volume of patient re-admissions.

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- There will be an additional excise tax on sales of medical devices with the exception of some items routinely purchased by consumers such as eyeglasses and hearing aids.
- The additional tax for HSA withdrawals and MSA withdrawals not used for purposes of a qualified medical expense will be increased to 20%.

2014 The centerpiece of the health care reform bill will take effect in 2014. Most U.S. citizens and legal residents that are not covered by Medicare or Medicaid will be required to have health insurance or pay a fine. (There are a few exemptions to these requirements.) Fines generally begin at $95 in 2014 and rise to $695 by 2016. The fines for children under age 18 are half that amount. Families without insurance will face fines of up to $2,250.

- Employers with more than 50 employees must offer insurance or pay a penalty of $2,000 per employee, after the first 30 employees.
- New state insurance exchanges should be open giving individuals and small businesses other options to obtain insurance.
- An annual, nondeductible fee will be imposed on health insurance providers insuring US citizens, US residents, and individuals located in the US. The aggregate annual fee will be apportioned among providers based on a market share ratio. The initial fee to be apportioned in 2014 is $8 billion.
- Hospitals may receive a reduction in Medicare payments based on their volume of patient hospital-acquired conditions.
- This will be the first year of phased-in reductions to Medicare and Medicaid disproportionate share hospital payments, based on reductions in the uninsured population.
- Insurers will also be prohibited from denying coverage to adults with pre-existing conditions and charging higher premiums to individuals with poor health. Premiums may only vary for reasons of age, geography, family size and tobacco use.

2018 The tax on high cost health plans takes effect. Insurance companies and plan administrators, who provide insurance policies with annual premiums over $10,200 per individual, or $27,500 per family, will pay a 40% non-deductible excise tax on the excess. Stand-alone dental and vision plans would not be included in the annual premium limit. Higher premium levels ($11,850 per individual or $30,950 per family) would apply for retired individuals age 55 or older and for employees in certain high-risk professions.

Obviously, this is only a summary of the highlights of these two pieces of legislation. Much will be learned, and worked out concerning the details of this legislation over the coming months.

For further information, please contact your Dixon Hughes advisor.

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