



# Health Care Reform Legislation: What employers need to consider for 2013 - 2018

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CONSULTING LLC™

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# Introduction

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Our first report on the Health Care Reform (HRC) legislation addressed the immediate concerns for employers. This report focuses on the expected employer requirements for 2013 and beyond. These future provisions include the requirement that all US Citizens, with limited exceptions, have health insurance coverage (individual mandate) and establish the state Exchanges that will make available standardized plan offerings for individuals and certain employers.

Employers will not be required to offer coverage to their full-time employees but there will be penalties assessed if no coverage is offered if coverage is offered but it doesn't meet the minimum benefit levels or it is unaffordable.

The provisions of the legislation addressed here will be implemented several years from now. Consequently, we do not expect details to be available for some time. This report is being provided as a guide to understanding future requirements.



# Introduction

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For information on Grandfathered Plans and provisions of the law that may not apply to those plans, please see our initial document –“***What employers need to consider for 2010-2012.***” If you missed this report, please visit our website [www.banyan-llc.com](http://www.banyan-llc.com).

The overwhelming complexity of this law means there are many areas that are still unclear. The legislation delegates responsibility to the Secretaries of Health and Human Services, Treasury, and Labor for the interpretation of many of the provisions and we await these details. These details will come in the form of regulations. There is no established time table for the release of these regulations but we will continue to update you as additional information becomes available.



# Annual Limits

<b>Who</b>	Group health plans and individual plans
<b>What</b>	<p>Prior to 2014, plans may impose annual limits on non-essential benefits as determined by the Secretary of HHS.</p> <p>Beginning 2014, annual limits will be prohibited entirely.</p>
<b>When</b>	2014



# Auto-Enrollment

<b>Who</b>	Employers with 200 or more employees
<b>What</b>	Requires the employer to auto-enroll all new employees into any available employer-sponsored health insurance plan. Employees may opt out if they have another source of coverage.
<b>When</b>	Assumed to be 2014 - not specified in Bill



# Clinical Trials

<b>Who</b>	Group health plans
<b>What</b>	<p>Coverage must be provided to qualified individuals for the routine costs in connection with a clinical trial.</p> <p>A qualified individual is one who is 1) eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of cancer or other life-threatening disease or condition, and 2) referred by a participating health care provider who has concluded or provides information establishing that the individual's participation in the trial is appropriate.</p>
<b>When</b>	2014



# Deductible Limits – small group market

<b>Who</b>	Small group market (up to 100 employees) mandated. It appears likely that this provision will apply to all group health plans in order to meet the Essential Benefit Level requirements.
<b>What</b>	The deductible levels must be limited to \$2000 for individuals, \$4,000 for families unless the employer contributions offset any deductible amounts above these limits.
<b>When</b>	2014



# Employee Notice Requirement

<b>Who</b>	Employers
<b>What</b>	Required to notify employees (and subsequent new hires) about the availability of the 2014 programs including the state Exchanges, premium subsidies, and free choice vouchers.
<b>When</b>	2013



# Exchanges - Definition

<b>Who</b>	Individuals and Employers with up to 100 employees*
<b>What</b>	<p>Ability to purchase coverage in state-based Exchanges:</p> <p>Small Business Health Options Program (SHOP) Exchanges – for employers with up to 100 employees*</p> <p>American Health Benefit Exchanges – for individuals</p> <p>Premium assistance tax credits available to non-Medicaid eligible individuals/families with income between 133-400% of the federal poverty level</p>
<b>When</b>	<p>2014</p> <p>* Prior to 2016 a state can elect to limit to employers up to 50 employees. Beginning 2017 states may allow employers with 100 or more employees to participate in the SHOP Exchange</p>



# Exchanges – Benefit Plans

<b>Who</b>	Individuals and Employers with up to 100 employees*
<b>What</b>	<p>There will be four benefit plans (plus a separate catastrophic plan) offered:</p> <ul style="list-style-type: none"><li>• <b>Bronze:</b> Essential Health Benefit Level - covers at least 60% of the actuarial value of the covered benefits, limits cost-sharing to the current law HSA limits, and is not more extensive than the typical employer plan.</li><li>• <b>Silver:</b> Bronze level at 70% (instead of 60%)</li><li>• <b>Gold:</b> Bronze level at 80% (instead of 60%)</li><li>• <b>Platinum:</b> Bronze level at 90% (instead of 60%)</li></ul> <p>The catastrophic plan applies to individuals only, up to age 30 or those exempt from the mandate for coverage. The coverage level is set at the HSA current law levels, except for preventive benefits.</p>
<b>When</b>	<p>2014</p> <p>*Beginning 2017 states may allow employers with 100 or more employees to participate in the SHOP Exchange</p>



# Exchanges – Essential Benefit Level Requirement

<b>Who</b>	Individual and employer-sponsored group health plans (except Grandfathered Plans) offered under the Exchanges. Plans offered outside the Exchanges are not required to meet this benefit level. However, penalties may apply (see penalty section).
<b>What</b>	Required to offer a minimum level of coverage, identified as an essential health benefit package (equivalent to the Bronze level in the Exchange), that covers at least 60% of the actuarial value of the covered benefits, limits cost-sharing to the current law HSA limits, and is not more extensive than the typical employer plan.
<b>When</b>	2014



# Flexible Spending Accounts

<b>Who</b>	Employers with FSA plans
<b>What</b>	The maximum contribution for medical expenses is limited to \$2,500 per year. This annual cap to be indexed by the cost of living adjustment.
<b>When</b>	Tax years beginning after December 31, 2012



# Free Choice Voucher

<b>Who</b>	Employers who offer minimum Essential health insurance coverage and that pay for a portion of the premiums. The employer must provide a free choice voucher to employees that meet <u>all</u> of the following: <ul style="list-style-type: none"><li>• income less than 400% of the federal poverty level</li><li>• employees share of the premium is between 8% and 9.8% of their household income</li><li>• does not participate in the employers plan</li></ul>
<b>What</b>	The voucher is equal to what the employer would have paid to provide coverage to the employee (or family) under the employer's plan. If the value of the voucher exceeds the premium of the Exchange plan chosen by the employee, the employee is paid the excess value of the voucher and it is excluded from gross income.  Employers that provide free choice vouchers will not be subject to the penalties outlined on page 21.
<b>When</b>	2014



# Guaranteed Availability of Coverage

<b>Who</b>	Insurance Issuer in the individual, small group market, and Exchanges
<b>What</b>	<p>Must accept every employer and individual in the state that applies for coverage and must renew such coverage at the option of the plan sponsor or individual.</p> <p>Rating variations can be based on age, rating area, family composition, and tobacco use only (small group market and exchanges). Experience rating will be prohibited.</p>
<b>When</b>	2014



# Medicare - Part D

<b>Who</b>	Medicare Part D beneficiaries
<b>What</b>	<p>Federal subsidies will be provided for brand-name prescriptions filled in the Medicare Part D coverage gap (donut hole), in addition to the 50% manufacturer brand-name discount</p> <p>The out-of-pocket amount that qualifies an enrollee for catastrophic coverage in Medicare Part D will be reduced.</p>
<b>When</b>	2014



# Medicare - Part D Subsidy

<b>Who</b>	Employers who receive the government retiree drug subsidy
<b>What</b>	Elimination of the tax deduction for employers receiving the retiree drug subsidy payments
<b>When</b>	Taxable years beginning after December 31, 2012 (See Phase I presentation for accounting disclosure requirements required earlier)



# Newly Established Plans

<b>Who</b>	New plans established (ex: new companies, companies first offering health programs, etc.)
<b>What</b>	Required to comply with one of the four benefit categories (See Exchanges – Benefit Plans on page 11).  Existing individual and employer-sponsored plans do not have to comply.
<b>When</b>	2014



# Out Of Pocket Limits

<b>Who</b>	Individual, Small group markets, and Exchanges
<b>What</b>	<p>The out of pocket amount will be limited (based as a percentage of the HSA maximum limits) for those with incomes up to 400% of the federal poverty level.</p> <p>This will not apply to the catastrophic plan that will be available to individuals only, up to age 30 (see page 11).</p>
<b>When</b>	2014



# Penalties to Employers – no coverage offered or not meeting minimums

<b>Who</b>	Employers with at least 50 full-time employees (or 50 FTE equivalents) during the preceding calendar year
<b>What</b>	<p><b>If you do not offer coverage <u>or</u> you:</b> 1) do not offer coverage to all FT employees, 2) offer minimum essential coverage that is unaffordable, or 3) offer minimum essential coverage that consists of a plan where the plan's share of the total allowed cost of benefits is less than 60%</p> <p><b>Plus</b> You have at least one FT employee who receives a premium tax credit for insurance through the Exchange</p> <p><b>Then</b> You will be assessed an annual penalty (prorated monthly) of \$2,000 per FT employee (the first 30 employees are excluded from the calculation).</p>
<b>When</b>	2014



# Penalties to Employers – coverage offered and meets minimums

<b>Who</b>	Employers with at least 50 full-time employees (or 50 FTE equivalents) during the preceding calendar year
<b>What</b>	<p><b>If you offer coverage</b> and it meets the minimum essential coverage requirement,</p> <p><b>Plus</b> You have at least one FT employee who receives a premium tax credit for insurance through the Exchange</p> <p><b>Then</b> You will be assessed an annual penalty (prorated monthly) which is the lesser of \$3,000 for each employee receiving a tax credit <u>or</u> \$2,000 for each FT employee.</p> <p>An alternative to this penalty is to offer the Free Choice Voucher (see page14)</p>
<b>When</b>	2014



# Penalties for No Coverage (Individual Mandate)

<b>Who</b>	US citizens and legal residents
<b>What</b>	<p>US citizens and legal residents (with some exceptions noted below) must have qualifying health coverage. Penalties will be imposed for those without coverage. Penalties will be phased-in through 2016 and adjusted for the cost of living adjustment in subsequent years.</p> <p>The penalties are the greater of: 2014: \$95 or 1% of taxable household income 2015: \$325 or 2% of taxable household income 2016: \$695 or 2.5% of taxable household income</p> <p>Exemptions will be granted for financial hardship, religious objections, American Indians, those without coverage for less than three months, undocumented immigrants, incarcerated individuals, those for whom the lowest cost plan option exceeds 8% of an individual's income, taxpayers with income under 100% of the federal poverty level, and those with incomes below the tax filing threshold.</p>
<b>When</b>	2014



# Pre-Existing Conditions

<b>Who</b>	Group health plans or individual plans
<b>What</b>	Pre-existing condition exclusions for adults are prohibited
<b>When</b>	2014 (see Phase I presentation change for children)



# Premium Assistance Tax Credits/Subsidy

Who	Non-Medicaid eligible individuals and families with incomes between 133-400% of the federal poverty level. US citizens and legal immigrants
What	<p>The government will provide Premium credits and cost sharing Subsidies to use to purchase insurance through the Exchanges.</p> <p>If an individual qualifies for the assistance, the Treasury Department will pay the credit amount directly to the insurance plan that they enroll in and the individual will be responsible for paying the difference between the cost of the plan and the credit. An alternative is for the individual to pay the entire cost of the plan and take the credit on their tax return.</p> <p>Credits/Subsidies are <u>not</u> available if employer coverage is offered and the plan has an actuarial value of at least 60% or if the employee share of premium is less than 9.8% of household income.</p>
When	2014



# Reporting Requirement

<b>Who</b>	Insurers and self-insured employers that provide at least the Essential Benefit Plan level
<b>What</b>	Required to supply certain health insurance coverage information to the IRS and covered individuals. Information to be reported includes the name, address, and tax ID of the covered individual, name and tax ID of covered dependents, the dates during the calendar that they were covered, whether the coverage is a qualified plan offered through an Exchange, the amount of any premium tax credit/cost-sharing reduction received by the individual, and any additional information the Treasury secretary may require.
<b>When</b>	2014



# Tax – Credit for Small Business

<b>Who</b>	<p>Eligible small businesses that purchase coverage through the state Exchange:</p> <p>Eligible small businesses are those with no more than 25 full-time equivalent employees and average annual full-time equivalent wages of less than \$50,000 (\$25,000 for employers with 10 or few employees) that provide health insurance for employees</p>
<b>What</b>	<p>Tax credit of up to 50% of the employer's contribution toward the employee's health insurance premium <u>if</u> the employer contributes at least 50% of the total premium cost.</p> <p>Tax exempt small businesses meeting these requirements are eligible for tax credits up to 35% of the employer's contribution toward the employee's health insurance premium.</p> <p>Credits will be available for two years.</p>
<b>When</b>	<p>Tax years 2014 and later (see Phase I presentation for tax years 2010-2013)</p>



# Tax – Excise Tax on High Cost Plan

<b>Who</b>	Insurers (fully-insured plans) and Employers (self-insured plans) of group health plans
<b>What</b>	<p>Imposes an excise tax of employer-sponsored health plans with aggregate values that exceed \$10,200 for individual coverage and \$27,500 for family coverage.</p> <p>The aggregate value of the plan includes reimbursements under an FSA for medical expenses, an HRA, employer contributions to an HSA, and coverage for supplementary health insurance coverage (excluding dental and vision coverage).</p> <p>The tax is equal to 40% of the value of the plan that exceeds the threshold amounts.</p> <p>Threshold is increased an additional \$1,650 individual, \$3,450 family, for certain individuals (retirees, high-risk, etc.). It may also be adjusted if health care costs rise more than expected prior to implementation of the tax.</p>
<b>When</b>	2018



# Tax – Itemized Deductions for Medical Expenses

<b>Who</b>	Individual tax payers
<b>What</b>	<p>The threshold for itemized deductions will be increased to 10% of adjusted gross income.</p> <p>This increased threshold will not apply to individuals age 65 or older for tax years 2013 to 2016.</p>
<b>When</b>	Tax years beginning after December 31, 2012



# Tax – Medicare Part A Tax Rate on Wages

<b>Who</b>	Employees earning over \$200,000 annually
<b>What</b>	<p>The FICA tax rate on wages will be increased to 2.35% on earnings over \$200,000 for individual taxpayers and \$250,000 for married couples filing jointly.</p> <p>The employer amount remains at 1.45%</p> <p>There is also an assessment on unearned income for higher-income taxpayers. The tax is equal to 3.8% of the lesser of the individual's net investment income for the year or the amount the individual's modified adjusted gross income exceeds the threshold amounts above. This assessment does not affect employers and their withholding requirements, it is the responsibility of the tax payer.</p>
<b>When</b>	Compensation received beginning 2013



# Waiting Periods

<b>Who</b>	Group health plans (employers with more than 50 full-time employees)
<b>What</b>	Must limit waiting periods for coverage to no more than 90 days.
<b>When</b>	2014



# Wellness Programs

Who	Group health plans and Issuers
What	<p>Permits employers to establish wellness programs that provide a premium discount, rebate, or other reward for participation without violating the nondiscrimination rules that prevent discrimination based on health status-related factors.</p> <p>If the reward is <u>not</u> based on satisfying a health standard, the program is permitted if the reward is made available to all similarly situated individuals.</p> <p>If the reward <u>is</u> based on satisfying a health standard, the program is permitted if 1) the reward is not greater than 30% of the cost of the health plan coverage (employer and employee contributions), 2) it is reasonably designed to promote health or prevent disease, 3) individuals have an opportunity to qualify for the reward at least once per year, 4) the full reward is available to all (including reasonable alternatives), and 5) Reasonable alternatives are disclosed in plan materials.</p>
When	2014



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