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Health reform: Guiding you through health reform compliance

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Agenda

- Recent regulatory guidance on selected reform elements for employers
- Employer perspectives
- Post reform strategies
Recent regulatory guidance on selected reform elements for employers
Health care reform
Overview

- The Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, raises significant implications for employers
  - Short on many details

- Regulators are issuing first wave of guidance
  - Various government agencies will continue drafting regulations
  - Likely to be a long and staggered process taking many years
  - Given the long implementation timeline and intervening election years, modifying legislation could be passed before some provisions are effective

- Short-term and longer-term provisions as we understand them today
Key elements of health reform for employers
Timeline reflects a calendar-year plan year

- Change in tax treatment for over-age dependent coverage
- Early retiree medical reinsurance
- Auto-enrollment of full-time employees (effective TBD)
- Break time/private room for nursing moms
- Employers must distribute uniform benefit summaries to participants
- Employers must provide 60-day advance notice of material modifications (TBD)
- Form W-2 reporting for 2011 health coverage
- Health insurance exchanges
- Individual coverage mandate
- Financial assistance for exchange coverage of low-income individuals
- Medicaid expansion
- Shared responsibility penalties
- Free-choice vouchers
- Additional reporting and disclosure
- Health insurance industry fees begin
- Dependent coverage to age 26 for any covered employee's child**
- No annual dollar limits**
- No pre-existing condition limits**
- No waiting period over 90 days**
- Additional new standards for new or "non-grandfathered" health plans, including limited cost-sharing
- HIPAA wellness limit increases

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<th>2010</th>
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- ** Applies to all plans, including "grandfathered" plans, effective for plan years beginning on or after Jan. 1, 2014.
- * Applies to all plans, including "grandfathered" plans, effective for plan years beginning on or after Sept. 23, 2010 (Jan. 1, 2011, for calendar year plans). Collectively bargained plans may have a delayed effective date.

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Key employer health care reform elements
Health reform issues for 2010

Recent regulations: Coverage of children to age 26

- Group health plans covering employees’ children must make coverage available to until age 26 for plan years beginning on or after Sept. 23, 2010 (delayed effective date for collectively bargained coverage)
- Until 2014, grandfathered plans may restrict coverage to children who aren’t eligible for another employer’s health plan
  - But not merely because a child has access through the other parent’s employer
- A plan can’t charge more based on a child’s age
  - Contribution tiers based on factors other than age are permitted (e.g., self-only, self-plus-one)
- A plan can’t use factors other than exceeding age 26 to restrict a child’s eligibility for coverage. For example, plans cannot condition eligibility on student status, marital status, residence with the employee or financial dependence on the employee
- No obligation to extend coverage to the spouse or child of an adult child under age 26
Key employer health care reform elements
Health reform issues for 2010

Recent regulations:
Coverage of children to age 26

- Must provide notice and at least 30 days to enroll in *any* plan or benefit option for which the employee-parent is eligible
  - Children under age 26 who previously lost coverage (including children with COBRA coverage)
  - Children under age 26 who were denied coverage due to age
  - The child’s employee-parent

- Changing plan terms to extend coverage to children under age 26 will not affect a plan’s grandfathered status

Compliance tasks to consider

- Early adoption?
- Eligibility revisions in agreements with vendors (insurers, TPAs, stop-loss carriers, COBRA administrators) and in SPDs or other plan documents
- Open enrollment – At least 30 days? Include new notice in open enrollment materials? Check-the-box for children with other employer coverage?
Key employer health care reform elements
Health reform issues for 2010

Recent regulations:
Tax treatment of dependent coverage

Recent IRS guidance (Notice 2010-38) relaxes rules for children’s tax-free employer-provided coverage through the end of the year in which a child turns 26
  - Biological son or daughter
  - Adopted son or daughter (including one placed with employee for adoption)
  - Stepson or stepdaughter
  - Eligible foster child

- Applies to coverage for medical, dental and vision coverage, health FSAs, HRAs (but not HSAs)
- Does not address state income tax treatment
- Old tax rules still apply for other children, such as a domestic partner’s child
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<th>Mandate to extend child coverage up to age 26</th>
<th>Tax-free treatment to end of year in which child turns 26</th>
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<td>Medical plan</td>
<td>Yes</td>
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<td>Stand-alone dental plan</td>
<td>No</td>
<td>Yes</td>
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<td>Stand-alone vision plan</td>
<td>No</td>
<td>Yes</td>
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<tr>
<td>Health Savings Account (HSAs)</td>
<td>No</td>
<td>No</td>
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<tr>
<td>Health Flexible Spending Arrangement</td>
<td>No (if HIPAA excepted benefit)</td>
<td>Yes</td>
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<tr>
<td>Health Reimbursement Arrangement</td>
<td>Yes</td>
<td>Yes</td>
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Key employer health care reform elements
Health reform issues for 2010

Recent regulations:
Early retiree reinsurance program

- HHS guidance gives some clarifying guidance on program
- Federal government will reimburse up to 80% of claims between $15,000 and $90,000 (indexed) for each non-Medicare-eligible early retiree age 55 or older (and spouse, surviving spouse, and dependent, regardless of age or Medicare status)
  - Each covered individual treated separately
  - Available for plan years ending after June 1, 2010
  - Sponsors must meet requirements
    - Reasonable projections of anticipated reimbursement amounts for current and next plan year
    - Describe how reinsurance payments will be used
      - Reduce participant contributions/costs
      - Offset increases in sponsor’s plan costs or other health benefit costs (maintain current level of contribution to the plan)
    - Program designed to generate cost savings with respect to individuals with high-cost conditions (likely to incur $15,000 or more in claims in a plan year)
    - Program to detect and reduce waste, fraud and abuse (may rely on vendors’ policies and procedures)
Key employer health care reform elements
Health reform issues for 2010

Recent regulations:
Early retiree reinsurance program

- Applications to be available mid- to late-June
  - Processed on a first-come, first-served basis
  - Incomplete applications will be rejected and sponsor will have to reapply, going to the back of the line
  - Application must be approved/certified before claims can be submitted

- HHS will use the Medicare retiree drug subsidy program as a model (e.g., similar roles, format of claims data submissions)

- The program will end at the earlier of: when limited $5 billion runs out or January 1, 2014
Key employer health care reform elements
Health reform issues for 2010

Recent regulations:
Early retiree reinsurance program

Initial steps to consider

- Decide whether to apply
- Examine prior years’ claims history to project expected reimbursement amounts
- Identify functions and assign staff, including monitoring developments
  - Authorized representative with legal authority to sign for and legally bind plan sponsor
  - Consider RDS experience; HIPAA privacy and security
- Gather information for application
  - Reasonable projections of anticipated reimbursement amounts for current and next plan year
  - Description of how reinsurance payments will be used
  - Description of policies and procedures
  - Determine all plans and benefit options available to early retirees
  - Plan year starting and ending dates (month and day, not year)
  - Plan sponsor tax identification number, name, address, and contact information
Key employer health care reform elements
Health reform issues for 2010

Recent regulations:
Early retiree reinsurance program

Initial steps to consider

- Prepare claim data for submission, including:
  - Incurred and paid claims paid by plan or early retiree (or both) will be reimbursable
  - Claims incurred prior to June 1 aren’t reimbursable but do count toward $15,000 cost threshold
  - Ask vendors to capture 2010 plan-year claims data for early retirees
  - Ask vendors to collect data on plan discounts, rebates and other reductions in claims
  - Claims for an eligible individual can’t be submitted until they reach $15,000 (and claims over $90,000 can’t be submitted)

- Prepare for reimbursement requests, including:
  - List of individuals for whom claims are being submitted
  - Plan year-to-date health benefit costs incurred and paid for each (net of negotiated price concessions)
  - Claims records with detailed information
Employer perspectives
Health care reform: Sizing up the challenge
About the survey

- Survey was fielded between April 27 and May 7 to employers registered for our webinars on health reform

- 791 employers participated, with a good distribution by industry and employer size
  - Fewer than 500 employees: 236 respondents
  - 500-4,999 employees: 354 respondents
  - 5,000+ employees: 196 respondents

- Designed to gauge employers’ potential actions in response to specific reform provisions, focusing on those effective in 2011
Caution: Survey allowed gut reactions

- Will probably take this action
- Would strongly consider
- Would consider
- Not likely to consider
- Would definitely not consider
Excise tax is the reform provision that worries employers the most

Percent of employers saying provision is a significant or very significant concern

- Excise tax for high-cost plans: 29%
- Children eligible up to age 26: 20%
- No lifetime limits: 21%
- Auto-enroll new hires: 16%
- EE’s working 30+ hours are eligible: 11%
- Plan must pay 60% of covered services: 7%

Source: Mercer's 2010 Survey on Health Reform – Sizing up the Challenge
Need to change their dependent eligibility rules to comply with the PPACA requirement that children up to age 26 be eligible for coverage

Source: Mercer’s 2010 Survey on Health Reform – Sizing up the Challenge
Will strongly consider the following actions with regard to dependent eligibility
Based on employers that will need to change dependent eligibility rule

- Require children above specified age to verify no other coverage available: 49%
- Impose a premium surcharge on dependents above a specified age: 21%
- Change premium rate tiers: 20%
- Impose higher premium share for all dependents: 16%
- Use more restrictive eligibility rules for dental and/or vision: 12%

Source: Mercer's 2010 Survey on Health Reform – Sizing up the Challenge
Likelihood that employer will extend coverage eligibility to children up to age 26 before the PPACA effective date
Based on employers that will need to change dependent eligibility rules

Source: Mercer’s 2010 Survey on Health Reform – Sizing up the Challenge
Current enrollment practices for newly hired employees and current members

**Newly hired employees who do not make an election:**

- Are not automatically enrolled: 88%
- Are automatically enrolled: 12%

**Members who do not make an election during Open Enrollment:**

- Are not re-enrolled, defaulted to no coverage: 21%
- Are enrolled into a default plan: 4%
- Are re-enrolled in previous plan, if plan still available: 75%

Source: Mercer’s 2010 Survey on Health Reform – Sizing up the Challenge
Will strongly consider the following actions with regard to auto-enrolling new hires

- Use lowest-cost plan or only plan as the default (43%)
- Impose a waiting period of up to 90 days before auto-enrolling (20%)
- Add a new plan to use as the default (8%)

Source: Mercer's 2010 Survey on Health Reform – Sizing up the Challenge
Almost two-fifths of retailers will need to extend eligibility to all employees who work 30+ hours per week to avoid paying penalties. Current eligibility provisions among employers with part-time employees:

**In compliance**
- All employees that work 30 hours or more are eligible: 74% for all employers, 61% for wholesale/retail employers.

**May not be in compliance**
- Employees are only eligible if they work more than 30 hours: 14% for all employers, 19% for wholesale/retail employers.
- No employees working fewer than 40 hours are eligible: 12% for all employers, 20% for wholesale/retail employers.

Source: Mercer’s 2010 Survey on Health Reform – Sizing up the Challenge
For a majority of employers, less than 10% of the total workforce is considered part-time – but that varies significantly by industry.

Source: Mercer's 2010 Survey on Health Reform – Sizing up the Challenge
For nearly half of retail employers, 20% or more of the total workforce is considered part-time.
Possible actions with regard to the requirement that all employees working 30 hours or more hours per week must be eligible
Based on employers currently not in compliance

- **Change workforce strategy so that fewer employees work 30 hours or more per week**
  - Will strongly consider: 20%
  - Would consider: 34%
  - Not likely to consider: 35%
  - Definitely would not consider: 10%

- **Offer only a lower-cost plan for part-timers**
  - Will strongly consider: 16%
  - Would consider: 38%
  - Not likely to consider: 37%
  - Definitely would not consider: 9%

- **Make minimal or no changes; instead pay shared responsibility penalty**
  - Will strongly consider: 8%
  - Would consider: 38%
  - Not likely to consider: 42%
  - Definitely would not consider: 13%

Source: Mercer's 2010 Survey on Health Reform – Sizing up the Challenge
Possible actions with regard to the requirement that all employees working 30 hours or more hours must be eligible
Based on employers already in compliance

- **Will strongly consider**: Change workforce strategy so that fewer employees work 30 hours or more per week (56%), Raise the eligibility requirement to 30 hours per week, if currently lower (47%)
- **Would consider**: Change workforce strategy so that fewer employees work 30 hours or more per week (10%), Raise the eligibility requirement to 30 hours per week, if currently lower (20%)
- **Not likely to consider**: Change workforce strategy so that fewer employees work 30 hours or more per week (31%), Raise the eligibility requirement to 30 hours per week, if currently lower (26%)
- **Definitely would not consider**: Change workforce strategy so that fewer employees work 30 hours or more per week (3%), Raise the eligibility requirement to 30 hours per week, if currently lower (7%)

Source: Mercer's 2010 Survey on Health Reform – Sizing up the Challenge
Believe that at least one health plan is at risk for failing the requirement that plans must pay at least 60% of covered services.

- Yes, only plan/all of plans: 2%
- Yes, one or more low-option/mini-med plan(s): 11%
- No, none of the plans: 87%

Source: Mercer’s 2010 Survey on Health Reform – Sizing up the Challenge
Employers’ best guess: will the number of employees covered in your health plan increase or decrease as a result of PPACA?

- Number of covered employees would increase, 35%
- Stay about the same, 60%
- Number of covered employees would decrease, 4%

Source: Mercer's 2010 Survey on Health Reform – Sizing up the Challenge
Close to half of employers expect PPACA-related changes to push up 2011 cost by no more than 2%; about 1 in 10 expect increase of at least 5%

Employer estimates of cost increase due to covering children up to age 26 and eliminating benefit maximums

Source: Mercer’s 2010 Survey on Health Reform – Sizing up the Challenge
Post reform strategies
Health care reform reinforces the need for new ways to manage costs

- More people covered by employer sponsored health plans
- Less variation permitted in plan design and contributions
- More cost shifting from government, providers and payers

There will be limited opportunities for cost cutting post-reform. Thus, employers need an increased focus on managing costs that, left unchecked, may rise even faster post-reform
Strategies for the reform era – things to think about now for 2011

■ Evaluate eligibility
  – For existing and non-grandfathered plans: Are you covering spouses and dependents who have access to other employer-sponsored coverage?
  – What procedures will you use to hold participants accountable for terminating coverage if they have access to other coverage?

■ Evaluate contribution strategy
  – Should you change/expand your coverage tiers? (e.g., 4 tiers)
  – How much do you want employees to pay for dependents?
  – Should you adopt salary based contributions?

■ Evaluate plan design
  – Do you have benefit maximums that need to be lifted?
  – In compliance with mental health parity?
Strategies for the reform era – more things to think about…

- Need a default plan for auto enrollment
  - Close to 60% value? Meet minimum contribution requirements?
  - Provide additional options as a buy up or tied to incentives

- Evaluate your carrier’s performance
  - Long-term viability as a market leader
  - Ability to create sustainable, innovative health care delivery solutions that will impact trend and improve outcomes

Vendor evaluations more rigorous and more often
- Per participant v. per employee fees
- More aggressive performance guarantees
- Disability case management and RTW
- Demand for evidence of ROI and improved reporting capabilities
- Extend programs and targeted messaging to adult children
Strategies for the reform era – focus on consumer engagement

- Leverage consumerist strategies
  - Member education, awareness building and self-care
  - Use emerging engagement tools like behavior economics, social networking
  - Value-based design to encourage right behaviors
    - e.g. Use short-term, time-limited incentives to stimulate Rx switches
  - Consider consumer based designs and use of accounts, within limits of new requirements
  - Integrate meaningful incentives for participation, sustained engagement and health improvements
  - Increase provider performance transparency

Adopt high-deductible plans with savings accounts

$6,400 average cost vs. $8,200 for PPOs and $8,600 for HMOs

Provides a longer-term perspective on health care
Engages the consumer through tools, better financial decisions
Becomes the new low option for default coverage
Strategies for the reform era – focus on quality

- Provide incentives for participants to seek highest quality care

“Medical homes” for high-cost, complex conditions
Provider engagement in care coordination of chronically ill
Centers of Excellence -- Domestic tourism for high-risk, high-cost surgical procedures
Limited networks focused on quality and efficiency
Greater acceptance of non-physician clinicians given short supply of PCPs
Closing thoughts: Prioritize concerns and efforts

- Develop a strategy
  - Model the impact to comply with health reform requirements
  - Determine required changes for the next plan year and $ impact
  - Evaluate alternative strategies and develop a short and longer-term strategy to comply
  - Develop action steps needed to implement a long-term strategy to manage your post-reform costs
  - Build a process to regularly update your strategy to respond to future reform and market changes

- Health reform has many requirements that are poorly defined

- We need to rely on regulations – which may or may not be helpful

- Some provisions that seem clear now, may change…
Questions and contacts

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Questions
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