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Patient Protection and Affordable Care Act – March 23, 2010 Update #1

The following is a summary provided by The Bostonian Group and Bostonian Solutions to help employers understand some of the key provisions of PPACA. We expect that it will be the first of many over the coming years.

This document is divided into two sections:

1. Summary of Key Provisions of the Extension
2. What Must Employers Do Now

As we find out more information, we will begin to add a Frequently Asked Questions section to these alerts.

Section I – Summary of Key Provisions of PPACA

Both PPACA and the Reconciliation Act are large, complex and full of many details. For now, we want to share the highlights, so the following are a brief summary of the key provisions of PPACA that may affect you as an employer in the near term and further out:

Short-term within the next year:

- Limitations on waiting periods for new employees to no more than 90 days and penalties exist for more than 30 days (no effective date defined but may be enacted within the first year).
- A business tax credit for companies with less than 25 employees beginning with the 2010 tax year. This will be rolled out in 2 phases and varies based on amount contributed, company size and payroll.
- Dependents can remain on their parents plan to age 26. This may be a change and enhancement of the current Massachusetts provision. In addition, several states allow dependents to stay on their parents plan up to age 30.
- New prohibitions on pre-existing condition exclusions as early as 6 months from now.
- Insurer premium increase review in 2010 and medical loss ratio reviews by January 1, 2011. Rebates are possible if overall medical loss ratio is not at 85%
- Preventive care provided at 100% with no cost sharing effective in 6 months, however CMS must define what is and is not included in this benefit.
- Revised definition of qualified medical expenses for FSA, HRA and HSA plans by 2011.
- In 2011, over the counter drugs can no longer be covered under an FSA, HRA or HSA.



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- Grants for small businesses that establish wellness programs beginning in 2011.
- With 2011 tax year, businesses must begin reporting “value” of medical and possibly dental and vision plans on employee’s W-2 form.

Longer term after a year

- Employer mandates effective January 1, 2014 with penalties for non-compliance for companies with more than 50 employees.
- Automatic enrollment of employees into group health plan for companies over 200 employees in 2014. Employees may not opt-out of the coverage.
- Creation of insurance exchanges similar to the Massachusetts Health Care Connector by January 1, 2015.
- Wellness incentives would be capped at 30% (versus the current 20% cap) by 2014.
- An individual mandate beginning in 2014 and being phased in through 2016.
- A voucher system for purchasing health insurance from one of the Exchanges for employees making less than 400% of the Federal Poverty Level (FPL) beginning in 2014.
- Expansion of Medicaid to 133% of FPL, which may benefit some very low income employees in 2014.
- A sliding scale of premium credits for people making between 133% and 400% of FPL, similar to Massachusetts model.
- A national reinsurance program for employers covering early retirees over 55 but younger than 65 that have claims between \$15,000 and \$90,000 in a calendar year. 80% of those claims would be paid for by a Federal program. This program is slated to begin in 90 days and end in 2014.
- Limit Health Care FSA contributions to \$2,500 in either 2011 or 2013, depending on the Reconciliation bill.
- Effective January 1, 2013, an increase in FICA taxes for Medicare Part A for higher income employees making either \$200,000 per year as an individual or \$250,000 as a family. The amount will be determined based on the Reconciliation bill vote.
- Creation and design of an “Essential Benefit Design” by the Department of Health and Human Services and CMS by January 1, 2014.
- Prohibitions on individual lifetime maximums and annual dollar maximums. Some provisions go into effect in 2014 and it’s unclear when others would go into effect. It seems that these provisions would affect self-insured companies as well.
- Small group deductible limit of \$2,000 single and \$4,000 family effective January 1, 2014.



- An excise tax on high value health plans – the so called “Cadillac Plans”. Many of the provisions of this section are different in the Reconciliation bill, and the key differences are compared below:

Provision	Reconciliation Act	PPACA
“Cadillac” Plan Value	\$10,200 single, \$27,500 family	\$8,500 single, \$23,000 family
	NOTE: No guidance on plans with more than 2-tier rates	
Effective Date	January 1, 2018	January 1, 2013
Adjustments	<ul style="list-style-type: none"> • Early retirees • People in “high risk” professions • Early retirees age 55-64 • Due to unexpected inflation • Demographics of the group 	<ul style="list-style-type: none"> • Early retirees • People in “high risk” professions • For 17 high cost states
Amount of tax	40% over value	40% over value
Who pays?	Insured plans: Health insurer Self-insured plans: Employers	Insured plans: Health insurer Self-insured plans: Employers
Includes	Contributions to FSA, HRA and employer contribution to HSA	Contributions to FSA, HRA, employer contribution to HSA, dental and vision plans
Excludes	Dental, vision plans	

What Must Employers Do Now and in the Near Future?

For now, be prepared for minor changes in the next 6 months, such as reviewing your waiting period for coverage and planning to make changes if it is longer than 30 days.

If you are fully-insured, changes will be implemented by your current health plan.

If you are self-insured, the nature of lifetime maximums and stop-loss reinsurance may be changing. It is not clear if ERISA pre-emption will exclude you from this part of the legislation.

If you would like to discuss any of these provisions in greater detail, The Bostonian Group has an internal team that is well versed in the legislation and would be glad to discuss with you further.