

Your To Do List

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Overwhelmed by health care reform? Here's a quick glance at the major changes that may affect employers. Consult your Warner Norcross & Judd Employee Benefits attorney to review the impact of these changes on your employee benefit plans.

Effective for Taxable Years beginning on or after January 1, 2010		
Change	What it means	Applies to Grandfathered Plans?*
Small Business Tax Credit	Employers who maintain a qualified health plan and have fewer than 25 full-time equivalent employees who earn less than an average of \$50,000 are eligible to receive a tax credit for up to 35% of group health insurance premiums paid under the plan. The amount increases to 50% in 2014.	A plan's grandfathered status will not affect eligibility.
Adoption Tax Credit Increased	The limit on the tax credit for adoption assistance expenses and the amount that may be excluded from income under an adoption assistance reimbursement program is increased by \$1,000, amounting to \$13,170, through the end of 2011.	A plan's grandfathered status will not affect eligibility.
Automatic Enrollment	Employers must automatically enroll new employees for coverage unless they opt out. When employers must start doing this is unclear at present.	No
Effective June 21, 2010		
Change	What it means	Applies to Grandfathered Plans?
Retiree Medical Reinsurance	This program will reimburse employer-sponsored plans for some benefits provided to retirees between the ages of 55 and 64. Reimbursement is available for 80% of	A plan's grandfathered status will not affect eligibility for the credit
Temporary High Risk Insurance Pool	This national program is being created to provide health coverage to individuals with pre-existing conditions who have not had insurance for at least six months.	N/A
Effective for Plan Years Beginning on or after September 23, 2010		

Change	What it means	Applies to Grandfathered Plans?
Coverage of Dependents Up to Age 26	Plans offering dependent coverage for children must provide coverage for adult children of covered employees until age 26. The requirement applies regardless of the child's marital or student status. This coverage is not taxable to the employee or child.	Yes, but until 2014, grandfathered plans do not have to provide coverage if child is coverage under another employer-sponsored plan
No Lifetime Limits	Plans may not impose lifetime limits on the amount of essential health benefits that will be covered. Limits on benefits that are not essential health benefits are permitted.	Yes
Restricted Annual Limits	A plans ability to impose annual limits on essential health benefits is limited until 2014, and then eliminated. Limits on benefits that are not considered essential health benefits are permitted.	Yes
No Rescission of Coverage	Plans are prohibited from rescinding a participants coverage, except for fraud or intentional misrepresentation.	Yes
Pre-Existing Condition Exclusions Limited	Plans may not have pre-existing condition exclusions for children under age 19. Pre-existing condition exclusions may not be imposed for any participant in plan years that begin on or after January 1, 2014.	Yes
Nondiscrimination Rules Imposed	The nondiscrimination rules that previously applied only to self-insured plans will now apply to fully insured plans as well. These rules prohibit discrimination in favor of highly compensated individuals.	No
Preventive Care Coverage Requirements	Plans must provide certain preventive care coverage without cost to employees. This includes certain preventive care and screenings for women, adolescents, and children, and some immunizations.	No
Patient Protections	Participants may designate a participating primary care provider of their choice. If the plan covers emergency hospital care, it must do so without requiring primary authorization and with the same requirements and costs as in-network services, regardless of whether the service provider is a participating provider. If the plan covers obstetrical and gynecological care, no referrals or prior	No

	authorization may be required.	
Claims and Appeals Procedures	Plans must implement required internal and external claims and appeals procedures and provide written notice to participants describing the procedures.	No
Notice of Coverage Requirements	Plans must provide a summary of benefits and coverage that accurately describes benefits to employees prior to enrollment in a manner specified by the law and forthcoming guidance. Despite the effective date of this requirement, the deadline to provide the notice is March 23, 2012.	Yes
Reporting Requirements	Plans must provide reports to the Secretary of Health and Human Services and participants regarding quality of care, and to the Secretary of Health and Human Services regarding data to be made public.	No
Effective January 1, 2011		
Change	What It Means	Applies to Grandfathered Plans?
Grants to Small Employers to Establish Wellness Programs	The Secretary of Health and Human Services will award grants to eligible employers for wellness programs. An employer is eligible if it has fewer than 100 employees who work 25 hours or more per week and if it did not have a wellness program prior to March 23, 2010.	N/A
Long-Term Care Payroll Deductions	Employees may participate in a new national long-term care insurance program by making contributions through voluntary payroll deductions. (See A Focus on Long-Term Care)	N/A
Effective for Taxable Years beginning on or after January 1, 2011		
Change	What It Means	Applies to Grandfathered Plans?
No Reimbursement for Over-the-Counter Medicines	The costs of over-the-counter medications (except for immunizations and insulin) acquired without a prescription are no longer eligible for reimbursement under flexible spending accounts (FSAs), health reimbursement arrangements (HRAs), or health savings accounts (HSAs).	N/A
Penalties Increased for HSA Withdrawals	The tax penalties for withdrawals from HSAs and Archer MSAs that are not used for qualified medical expenses is increased to 20% (from 10% for HSAs	N/A

	and 15% for Archer MSAs).	
"Simple Cafeteria Plan"	Eligible small employers may establish a simple cafeteria plan, which will be treated as automatically meeting the nondiscrimination rules. Employers with an average of 100 or fewer employees in the preceding two years are eligible. Minimum contribution and eligibility requirements must be met.	N/A
Cost of Benefits on W-2	Beginning with the 2011 Form W-2, employers must disclose the value of employer-sponsored medical coverage.	N/A
Effective for Plan Years ending after September 30, 2012 (generally this means plans years beginning on or after November 1, 2011)		
Change	What It Means	Applies to Grandfathered Plans?
Annual Fee on Health Insurance and Self-Insured Plans	An annual fee of \$2 (\$1 in the case of plan years ending during fiscal year 2013) times the average number of covered lives under a health plan will be assessed to finance the Patient-Centered Outcomes Research Trust Fund. The fee is specifically imposed on policy issuers of health insurance and sponsors of self-insured health plans through 2019.	Yes
Effective March 23, 2012		
Change	What It Means	Applies to Grandfathered Plans?
Advance Notice of Material Modifications	If a group health plan or health insurance issuer makes any material changes to the terms of the plan or coverage that are not covered in the most recent summary of benefits and coverage for the plan, notice of the changes must be provided to participants at least 60 days prior to the effective date.	Yes
Effective for Taxable Years beginning on or after January 1, 2013		
Change	What It Means	Applies to Grandfathered Plans?
New Health FSA Contribution Limit	Health FSA salary reduction contributions are limited to \$2,500 each year. This limit does not apply to employer health FSA contributions.	N/A
No Medicare Part D Subsidy Deduction	There will no longer be a deduction available for the cost of providing prescription drug coverage to participants eligible for Medicare.	N/A

Employer Notice Regarding Exchanges	Employers must notify new employees of the existence of Exchanges, the standards for receiving a subsidy under the Exchange, and the consequences of purchasing a policy through an Exchange without the employer providing a voucher.	Yes
Medicare Payroll Tax Increase	An increased Medicare payroll tax of 0.9% will apply to wages of an individual taxpayer in excess of \$200,000 (\$250,000 in the case of a married taxpayer filing jointly).	N/A
Effective for Taxable Years beginning on or after January 1, 2014		
Change	What It Means	Applies to Grandfathered Plans?
No Coverage Penalty for Employers	Employers with at least 50 employees who do not offer minimum essential health coverage must pay a penalty in any month during which a full-time employee receives coverage through an exchange. The penalty for any month is calculated by multiplying the number of full-time employees over 30 times 1/12 of \$2,000.	N/A
Health Insurance Exchange Coverage for Small Employers	Small employers may obtain coverage for employees through an exchange. An employer with less than 100 employees will be considered small unless a state limits small employers to those with less than 50 employees.	N/A
Qualified Employee Vouchers	Any employer who sponsors a health plan and contributes toward the cost of coverage must offer qualified employees vouchers for use under an exchange if the employee chooses to opt out of the employer-sponsored plan.	Yes
New IRS Reporting Requirement	Through a new IRS reporting requirement, employers must demonstrate minimum essential coverage under a health plan is being provided.	
Effective for Plans Years beginning on or after January 1, 2014		
Change	What It Means	Applies to Grandfathered Plans?
All Pre-Existing Conditions Prohibited	Plans may not impose pre-existing condition exclusions on any participants.	Yes
Annual Limits Prohibited	Plan may not impose any annual limits.	Yes

Wellness Incentive Limit Increases	The maximum penalty permitted under wellness plans increases from 20% to 30% of the cost of coverage. Regulators may choose to increase this limit to any amount up to 50%.	N/A
Waiting Periods Prohibited	Plans may not impose a waiting period of more than 90 days.	Yes
Cost-Sharing Limits	A plan may not have a deductible in excess of \$2,000 for single coverage (\$4,000 for family coverage).	No
Clinical Trials Protected	Plans must cover participation costs for certain clinical trials.	No
Effective for Taxable Years beginning on or after January 1, 2018		
Change	What It Means	Applies to Grandfathered Plans?
Cadillac Tax on High Cost Plans	If the value of employer-sponsored coverage exceeds a threshold amount (\$10,200 for single coverage and \$27,500 for family coverage), a 40% excise tax will apply to the amount of coverage that exceeds the threshold. The tax applies to coverage providers, including insurers of insured plans, administrators of self-insured plans or FSAs, and employers contributing to an HSA or Archer MSA.	Yes

*Read about Grandfathered Plans [here](#).