



THE HEALTH CARE REFORM BILL: WHAT SOLO AND SMALL FIRM ATTORNEYS NEED TO KNOW

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ABSTRACT: This Report discusses the impact of the March 2010 health care reform legislation on solo practitioners and small firm attorneys. This Report also explains the particular provisions of the legislation that affect solos, small firm attorneys, and the self-employed.

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EXECUTIVE SUMMARY

This Report will tell you about the following features of the new health care law and how they affect solos. For example:

1. Young solos who start a practice right out of law school will benefit by being able to remain on parents' health insurance longer.....[8](#)
2. Health care exchanges will allow uninsured solos to pool with others to procure more cost effective policies and to access information to better compare available plans.....[10](#)
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OVERVIEW OF THE REFORM BILL

The 2010 Health Care Reform Bill expands the U.S. government’s responsibility for the 32 million Americans ¹ who were previously unable to access either public or private health care, due to financial issues or preexisting conditions. The Reform Bill expands Medicaid to all people under a given income threshold – not just children, pregnant women, parents, and the disabled – and redefines the financial requirements. The Reform Bill also provides subsidies to the rest of the working-age uninsured to buy private health insurance in a revamped insurance marketplace that bans insurers from turning down anyone who is willing to pay.

¹ CBS News Political Hotsheet, “Health Care Reform Bill Summary: A Look At What’s in the Bill” March 21, 2010 (available at: <http://tinyurl.com/yzg639m>, last visited May 1, 2010) (hereinafter “Hotsheet Summary”).

LEGISLATIVE DETAILS & TERMINOLOGY

As discussed in this White Paper, the “Reform Bill” includes The Patient Protection and Affordable Care Act (Public Law 111-148) that was signed into law on March 23, 2010, as well as the Health Care and Education Reconciliation Act of 2010, which became law on March 30, 2010. The Health Care and Education Reconciliation Act of 2010 amended The Patient Protection and Affordable Care Act, such that these two laws work in tandem, and this white paper collectively refers to them as the “Health Care Reform Bill” or, more simply, the “Reform Bill.”

PROVISIONS AFFECTING SOLOS

I. Expansion of Medicaid to People Above Poverty Line

The Health Care Reform Bill has greatly expanded Medicaid, and who may qualify for this purely government-funded insurance. By way of home office deductions and other business expenses, solo attorneys are often able to greatly reduce their taxable income.² Solos, particularly those just starting out, may find themselves qualifying for government-funded

² While poverty guidelines are generally based on gross income, some programs use the net income for determining eligibility, so it is necessary to check with your state’s Medicaid administrator.

healthcare when Reform Bill revisions to eligibility become effective in 2014.

The new threshold will expand Medicaid eligibility for working-age, childless people making up to 133% of the Federal Poverty Level (“FPL”).³

The following chart shows Medicaid eligibility based on family size, using the 2009 FPL Guidelines, which are in effect until at least May 31, 2010^{4 5}:

<i>Size of Family Unit</i>	<i>Federal Poverty Level⁶</i>	<i>133% of Federal Poverty Level (Medicaid Eligibility)</i>
1	\$10,830	\$14,404
2	14,570	19,378
3	18,310	24,352
4	22,050	29,327
5	25,790	34,301
6	29,530	39,275
7	33,270	44,249
8	37,010	49,223
<i>For families with more than 8 persons, add \$3,740 for each additional person to the FPL.</i>		

Each state independently sets Medicaid eligibility, since Medicaid is administered by the states and funding is apportioned between the state and

³ See Footnote 1, “Hotsheet Summary.”

⁴ These FPL guidelines apply to all states except Alaska and Hawaii, which have higher FPLs.

⁵ U.S. Department of Health and Human Services, “The 2009 HHS Poverty Guidelines” (available at: <http://aspe.hhs.gov/poverty/09poverty.shtml>, last visited May 1, 2010).

⁶ This chart is for illustrative purposes only since the requirement does not go into effect until 2014 and the FPLs are regularly updated.

federal government. The Reform Bill sets a *maximum* eligibility requirement for those who did not previously qualify due to family status (i.e., not having children). For an updated list of current thresholds for the different classes (children, infants, pregnant women, etc.) in all states, visit the National Conference of State Legislatures, “Medicaid Eligibility Table by State” at <http://www.ncsl.org/?tabid=20044>.

While the states are required to expand Medicaid in the manner described starting in 2014, it would be worthwhile to keep an eye on your state as some may implement the expansion earlier. The Reform Bill encourages early implementation by proscribing that the federal government will pay 100% of the costs for newly eligible individuals through 2016.⁷

II. Better Coverage for the Privately Insured

For people who are able to get insurance on the private market, there are new requirements of and restrictions on insurers, intended to improve the quality of care.

¶ Caps and Rescissions – The Reform Bill bans insurers from dropping people from coverage in the event of illness (effective September

⁷ See Footnote 1, “Hotsheet Summary.”

2010).⁸ It further forbids the insurance companies from imposing a lifetime cap on benefits under all plans (effective September 2010).⁹ Annual caps in employer plans and new plans are tightly regulated under the Reform Bill starting September 2010, and they are prohibited as of 2014.¹⁰

· Maternity Services & Female Concerns – When the Health

Insurance Exchanges are implemented, the Reform Bill includes maternity services in the essential benefits package (effective in 2014).¹¹ The Reform Bill also prevents insurers from using gender as a means to determine rates (effective in 2014).¹²

· Preexisting Conditions – The Reform Bill bans insurers from charging higher premiums or refusing service due to preexisting conditions (effective September 2010 for children¹³, and 2014 for adults).¹⁴ Insurers can no longer drop people with preexisting conditions (effective in September

⁸ Office of Speaker Nancy Pelosi, “Key Provisions That Take Effect Immediately,” April 2, 2010 (available at: <http://tinyurl.com/y8qjo4p>, last visited May 1, 2010) (hereinafter “Immediate Provisions”).

⁹ See Footnote 8, “Immediate Provisions.”

¹⁰ See Footnote 8, “Immediate Provisions.”

¹¹ Office of Speaker Nancy Pelosi, “America’s Women Have the Most to Gain,” March 25, 2010, (available at: <http://tinyurl.com/24khtbd>, last visited May 1, 2010) (hereinafter “Women’s Provisions”).

¹² See Footnote 11, “Women’s Provisions.”

¹³ See Footnote 8, “Immediate Provisions.”

¹⁴ See Footnote 11, “Women’s Provisions.”

2010).¹⁵ Starting from June 2010 until the Exchanges open in 2014, a temporary high-risk pool will serve the uninsured Americans who have pre-existing conditions.¹⁶

¹ Preventative Care – The Reform Bill encourages preventative care by eliminating co-pays and exempting preventative care from deductibles in both new private insurance plans and Medicare (effective September 2010).¹⁷ ¹⁸ All plans must comply with this requirement by 2018.¹⁹

^o Co-Pays and Deductibles – Effective 2014, there will be caps on what insurers can require an insured person to pay in terms of co-pays and deductibles.²⁰

» Young Adults – Under the Reform Bill, children may stay on their parents' health insurance until their 26th birthday. Until 2014, young adults can only qualify under this provision if their employer does not offer

¹⁵ Office of Speaker Nancy Pelosi, "What's In It For Young Americans?," March 25, 2010, (available at: <http://tinyurl.com/236bgl5>, last visited May 1, 2010) (hereinafter "Young Americans").

¹⁶ See Footnote 8, "Immediate Provisions."

¹⁷ See Footnote 15, "Young Americans."

¹⁸ See Footnote 8, "Immediate Provisions."

¹⁹ CNN Politics, "Timeline: When health care reform will affect you," March 26, 2010 (available at: <http://tinyurl.com/yzlr8wg>, last visited May 1, 2010) (hereinafter "CNN Timeline").

²⁰ See Footnote 15, "Young Americans."

insurance.²¹ Starting in 2014, it will not matter whether their employer offers insurance.²²

¼ Review Processes – The Reform bill requires new health insurance plans to allow policy holders access to both internal and external appeals processes for coverage determination and claims (effective September 2010).²³ ²⁴ States will also establish health insurance consumer assistance officers, which will allow consumers to file complaints and appeals against insurers for unreasonable rate hikes (federal funding for these programs is available immediately).²⁵

½ Rebates – As of January 1, 2011, insurers will be required to put at least 80% of premiums from the individual market (85% for large group plans) into medical care and less into profits, executive salaries, and administrative costs. Those that fail to do so are required to send rebates to policyholders.²⁶

²¹ See Footnote 8, “Immediate Provisions.”

²² See Footnote 15, “Young Americans.”

²³ See Footnote 8, “Immediate Provisions.”

²⁴ See Footnote 19, “CNN Timeline.”

²⁵ See Footnote 8, “Immediate Provisions.”

²⁶ See Footnote 8, “Immediate Provisions.”

³/₄ Older Americans – As to older Americans on private insurance, the Reform Bill requires that premiums based on age can only vary by a maximum of 3:1 ratio (effective in 2014, when exchanges are formed).²⁷

III. Health Insurance Exchanges

The Reform Bill provides for a new insurance marketplace starting in 2014 called the “exchanges.” State-based exchanges will offer subsidies in the form of credits to individuals and families whose income is between 133% and 400% of FPL, but who do not qualify for Medicaid or Medicare.²⁸ To encourage early implementation of the exchanges, the federal government is providing funding to states to establish exchanges from March 2011 until January 2015.²⁹ In the exchanges, insurers will be required to use uniform coverage documents, much like forms, so that consumers are better able to compare the plans available.

IV. Subsidizing Insurance Premiums

The Reform Bill sets a maximum “out-of-pocket” pay for Americans making up to 400% of the Federal Poverty Level (“FPL”) (effective when the exchanges are set up). Depending on income, the maximum out of

²⁷ See Footnote 8, “Immediate Provisions.”

²⁸ See Footnote 1, “Hotsheet Summary.”

²⁹ See Footnote 1, “Hotsheet Summary.”

pocket pay will be between 2% and 9.8% of income for annual premiums.

This provision applies to individuals and families purchasing their insurance on an exchange who are not eligible for Medicare, Medicaid, or employer coverage.³⁰

Put another way, the federal government will pay for part of your insurance if it ends up costing too high a percentage of your income, so long as you are in a lower to middle class income bracket. You must not qualify for Medicaid in order to take advantage of this tax credit. The following chart demonstrates how these subsidies might apply to you:

Age	20	40	20	40	20	40
Annual Income	\$20,000	\$20,000	\$32,000	\$32,000	\$43,000	\$43,000
% Of FPL	185%	185%	295%	295%	397%	397%
Annual Premium	\$2,637	\$3,500	\$2,637	\$3,500	\$2,637	\$3,500
Cap on What You Pay as % of Income	5.59%	5.59%	9.37%	9.37%	9.50%	9.50%
Premium Paid by You	\$1,119	\$1,119	\$2,637	\$2,998	\$2,637	\$3,500
Subsidy / Tax Credit	\$1,518	\$2,381	-0-	\$502	-0-	-0-

³⁰ See Footnote 1, “Hotsheet Summary.”

This table is for illustrative purposes and applies for single individuals. In calculating the actual subsidy, family status is also taken into account. If you would like to enter your specific income, age, and family status, visit the Kaiser Family Foundation's subsidy calculator at:

<http://healthreform.kff.org/SubsidyCalculator.aspx> Again, these subsidies will take effect in 2014 when the exchanges are formed.³¹

V. Insurance Mandate (Required Coverage)

There has been much discussion about the Reform Bill's penalties for failing to get and maintain health insurance. Starting in 2014, all Americans are required to purchase health insurance. In the final Reform Bill, there are no criminal penalties for failure to comply, but there is a civil fine which may be assessed annually.³² The maximum annual fine will be \$95 in 2014, \$325 in 2015, then \$695 in 2016. The penalties will adjust with the Consumer Price Index after 2016. Families will pay half the standard penalty for children, with a cap of \$2,250 per family. In no event can a fine be more than 2.5% of an individual's income.³³

³¹ Politifact, "Health reform bill includes tax credits to help middle and lower income people buy insurance," March 26, 2010 (available at: <http://tinyurl.com/2f5mlhe>, last visited May 1, 2010).

³² See Footnote 1, "Hotsheet Summary."

³³ See Footnote 19, "CNN Timeline."

There are exemptions from individual responsibility for coverage for those with financial hardship, particularly individuals who would have to pay more than 8% of their income for the lowest-cost health insurance option.³⁴ In addition, those people who are below the tax filing threshold will be exempt from the penalties.³⁵ In 2009, that threshold was \$9,350 for singles and \$18,700 for couples for those taxpayers under 65.³⁶

For those workers who are exempt from the insurance mandate, yet do not qualify for tax credits, there will be the option of taking their employer's contribution and joining a plan on the exchanges.³⁷

PROVISIONS AFFECTING SMALL FIRMS AND BUSINESSES

I. No Requirement to Provide Insurance

There are no requirements for small firms and businesses to offer their employees health insurance. Only employers with more than 50 employees are required to offer health insurance under the Reform Bill.³⁸

³⁴ CNN Health, "Updated: Answers to your questions on health care law," March 25, 2010 (available at: <http://tinyurl.com/24col6r>, last visited May 1, 2010) (hereinafter "CNN FAQs").

³⁵ See Footnote 34, "CNN FAQs").

³⁶ See Footnote 34, "CNN FAQs").

³⁷ See Footnote 19, "CNN Timeline."

As of September 2010, there is a requirement that there be no discrimination in employer health plans against employees based on salary or wages, because those policies have the effect of leaving young Americans uninsured.³⁹

II. Taxes and Incentives

The Reform Bill gives small businesses that choose to offer coverage tax incentives in the form of credits. Effective January 1, 2010, small businesses may take tax credits amounting to 35% of employer premium contributions to health coverage.⁴⁰ This amount increases up to 50% of contributions by 2014, for up to 2 years.⁴¹ The credits are temporary assistance, so they may only be taken from 2010 through 2013, and for any two years after that.⁴²

Qualifying small businesses must have 25 or fewer full time employees (50 half time employees would also qualify), have an average annual salary of under \$50,000, and pay for 50% or more of their

³⁸ See Footnote 1, “Hotsheet Summary.”

³⁹ See Footnote 8, “Immediate Provisions.”

⁴⁰ See Footnote 19, “CNN Timeline.”

⁴¹ See Footnote 8, “Immediate Provisions.”

⁴² Office of Speaker Nancy Pelosi, “Small Business Guide,” March 25, 2010, (available at: <http://tinyurl.com/27rqkmo>, last visited May 1, 2010) (hereinafter “Small Business Guide”).

employee's healthcare.⁴³ The credits phase out for small businesses with between 10 and 25 workers and average incomes between \$25,000 and \$50,000.⁴⁴ Following are several examples⁴⁵ on how the tax credits would affect small law firms:

⁴³ WhiteHouse.gov, "Small Business Health Care Tax Credit," (undated) (available at: <http://tinyurl.com/2ars8ps>, last visited May 1, 2010) (hereinafter "Small Business Credit").

⁴⁴ See Footnote 43, "Small Business Credit."

⁴⁵ Adapted from: WhiteHouse.gov, "Small Business Health Care Tax Credit: Four Cases," (undated) (available at: <http://tinyurl.com/247f8gc>, last visited May 1, 2010).

Example #1: Rural Law Firm

Employees: 9

Wages: \$198,000 total or \$22,000 per worker

Employer Health Care Costs: \$72,000

2010 Tax Credit: \$25,200 (35% credit, no phase out)

2014 Tax Credit: \$36,000 (50% credit, no phase out)

Example #2: Small Town Law Firm

Employees: 11

Wages: \$240,000 total or \$24,000 per worker

Employer Health Care Costs: \$70,000

2010 Tax Credit: \$24,500 (35% credit, no phase out)

2014 Tax Credit: \$40,000 (50% credit, no phase out)

Example #3: Downtown Small Law Firm

Employees: 15

Wages: \$420,000 or \$35,000 per worker

Employer Health Care Costs: \$90,000

2010 Tax Credit: \$14,700 (35% credit, with phase out)

2014 Tax Credit: \$21,000 (50% credit, with phase out)

The 2-year phase out applies here for two reasons: first, there are between 10 and 25 workers and, second, the average income is between \$25,000 and \$50,000 per worker.

A tax credit amounts to partial payment made toward taxes owed.⁴⁶ So, if the tax credit resulting from employer contributions to health insurance is \$25,200, then that small business can deduct \$25,200 from the taxes due at the end of the year.

An employer's eligible contribution is limited to the average cost of health insurance in that state. This will deter small business owners from taking advantage of available tax credits by choosing a high-cost plan.⁴⁷

Starting in 2018, the Reform Bill requires an excise tax on "Cadillac plans," high-cost, employer-provided plans beyond \$10,200 for single coverage and \$27,500 for family coverage. The prices will increase to \$11,850 for singles and \$30,950 for families.⁴⁸

Under the Reform Bill, employers will also have to start the value of health care benefits on an employee's W-2 (effective 2014).⁴⁹

III. Exchanges

In 2011, a plan will be created to provide small businesses a way to offer tax-free benefits, easing the burden of sponsoring a "cafeteria plan."⁵⁰

⁴⁶ Wikipedia, "Tax credit," (available at: http://en.wikipedia.org/wiki/Tax_credit, last visited May 1, 2010).

⁴⁷ See Footnote 43, "Small Business Credit."

⁴⁸ See Footnote 19, "CNN Timeline."

⁴⁹ CNN Money, "Health reform's immediate impact: Your benefits," March 30, 2010, (available at: <http://tinyurl.com/yjj8q1t>, last visited May 1, 2010).

In 2014, Small Business Health Options Programs (called SHOP-exchanges) will open to employers with 100 or fewer workers,⁵¹ allowing them to comparison shop for standardized health packages.⁵² The goal of these state-based exchanges is to significantly lower administrative costs to small businesses by allowing them to “pool their buying power.”⁵³

As with the exchanges for individuals, the documentation of coverage plans will be uniform, enabling smarter and easier buying choices, fostering competition in the insurance market and theoretically lowering premiums. Also, all plans sold on the exchanges will have a minimum set of benefits, so that businesses without the bargaining power of large corporations or government agencies will not be stuck with inadequate coverage for workers.⁵⁴ Preventative care will be exempt from co-pays and deductibles.⁵⁵ Insurers will not be permitted to selectively renew small business coverage, or to charge higher rates based on the gender, occupation, or preexisting

⁵⁰ See Footnote 19, “CNN Timeline.”

⁵¹ WhiteHouse.gov, “Six Ways Health Reform will Help Small Businesses” (undated) (available at: <http://tinyurl.com/2392e8q>, last visited May 1, 2010) (hereinafter “Six Ways”).

⁵² See Footnote 19, “CNN Timeline.”

⁵³ See Footnote 51, “Six Ways.”

⁵⁴ See Footnote 42, “Small Business Guide.”

⁵⁵ See Footnote 42, “Small Business Guide.”

conditions of workers that in the past could significantly drive up insurance costs for small businesses.⁵⁶

IV. Payroll

For employees of small businesses earning more than \$200,000 (\$250,000 for married filing jointly), the Medicare payroll tax will increase from 1.45% to 2.35% in 2011 under the Reform Bill.⁵⁷ Employers who subsidize prescription drug plans for Medicare Part D-eligible retirees will lose their tax deduction in 2013, when the subsidy expires.⁵⁸

V. Lower Premiums

In 2014, “community rating” rules commence, prohibiting insurers from charging small businesses with sicker workers more, and from raising rates if a worker gets sick.⁵⁹ By 2019, the Reform Bill is expected to significantly lower premiums by getting rid of the “hidden tax” that people currently pay to cover the uninsured.⁶⁰ ⁶¹ The “hidden tax” currently amounts to an estimated \$1,000 per insured person per year, this money going to cover the

⁵⁶ See Footnote 42, “Small Business Guide.”

⁵⁷ See Footnote 19, “CNN Timeline.”

⁵⁸ See Footnote 19, “CNN Timeline.”

⁵⁹ See Footnote 51, “Six Ways.”

⁶⁰ USA Today, “Study: Insured pay 'hidden tax' for uninsured health care,” May 29, 2009, (available at: <http://tinyurl.com/q9gdly>, last visited May 1, 2010) (hereinafter “Hidden Tax”).

⁶¹ See Footnote 51, “Six Ways.”

37% of health care bills that go unpaid due to people not having insurance.⁶²

The Reform Bill aims to insure 32 million additional people by 2019, which will theoretically eliminate the “hidden tax” caused by unpaid health care bills.⁶³

How much premiums will be reduced for small businesses remains to be seen. Proponents for the Reform Bill claim the measures will reduce premiums “significantly,” while the Congressional Budget Office estimates premiums will be reduced from 1-4% by 2016.⁶⁴

⁶² See Footnote 60, “Hidden Tax.”

⁶³ See Footnote 51, “Six Ways.”

⁶⁴ See Footnote 51, “Six Ways.”

QUESTIONS AND ANSWERS

This section includes some questions and answers regarding the Reform Bill and how it pertains to solo and small firm attorneys.

Question #1: What about COBRA? Has it been changed?

There is no mention of COBRA in the Reform Bill, and coverage is currently 18 months for the unemployed. There are certain jobs bills currently in negotiation that may extend COBRA if passed.⁶⁵

Question #2: I have insurance. When can I start taking advantage of free preventative care?

As of September 2010, all new individual and group plans must provide coverage for preventative services without a co-pay or deductible. You may have to change individual plans to receive this benefit.

Question #3: I'm diabetic and I have no health insurance. Do I have to wait until 2014 to purchase on the exchanges?

In all likelihood, no. If you have a preexisting medical condition and you haven't had insurance for 6 months, then you will be eligible for

⁶⁵ WCBSTV.com, "Web Chat Transcript: Health Care Reform Questions," March 23, 2010, (available at: <http://tinyurl.com/24r4fzq>, last visited May 1, 2010).

the high-risk pool insurance. The Reform Bill requires that a national high-risk pool be available within 90 days of signing the Bill into law, so you should be able to sign up in June 2010. In the interim, you may wish to check with your state to see if there is a state-sponsored risk pool. Thirty-four states offer some form of risk pools, although some are admittedly better than others.⁶⁶

Question #4: I'm an attorney at a small law firm and they don't offer insurance. Does the new legislation mean that I'll get insurance through my work?

It depends (of course it does!). Your employer won't be required to offer you insurance (unless she has over 50 employees, which would hardly be a small firm). The good news is that there are now significant tax credits available for qualifying small businesses that want to offer employees health insurance. So, your employer might not be *required* to offer you insurance, but she might be *motivated* to do so in light of the tax breaks.

⁶⁶ Health Insurance Resource Center, "Risk pools for the medically uninsurable aid those turned down for health insurance," (undated) (available at: http://www.healthinsurance.org/risk_pools/, last visited May 1, 2010).

Question #5: My 24-year-old daughter hasn't had insurance since my insurance dropped her for turning 23. Does this mean I can put her back on my policy?

Yes, you may, so long as she does not have a job that offers health insurance. Although insurance companies aren't required to allow this until September 2010, some have started already, so call yours to find out their policy. Come 2014, it won't matter whether a young adult's employer offers health insurance or not; he can stay on his parents' insurance until he's 26, regardless.

Question #6: I own a small law firm. Will my taxes increase because of the Reform Bill?

The taxes your small business pays will not increase. What might increase are your personal taxes, if you are making over \$200,000 (or \$250,000 for a married couple). In that case, you will see an increase in your Medicare payroll taxes and capital gains on unearned income. One thing that remains unclear is the practical effect of having to list your employee's health benefits on his W-2. The government is saying this is a way of ensuring everyone has health insurance and of

taxing the Cadillac plans, but think back to the basics of Federal Income Tax. Your employment benefits are taxable. You might not pay taxes on those benefits (many people don't declare them), but they are taxable. Now that people will have a few thousand extra dollars income on their W-2s, their gross income may increase (and won't their personal taxes as well?), and it remains to be seen whether there will be any additional costs will be seen by small businesses in the form of payroll taxes or similar. Proponents of the bill swear up and down that small businesses will not have to pay extra taxes because of the Reform Bill, but maybe they're defining "extra" as taxes that the employers don't already technically owe.

Question #7: I own a small law firm. I offer my employees insurance, but can only afford to cover 25% of premiums right now. Do I qualify for the tax credit? If not, can I qualify for the credit in a year or so when I'll have the money to cover a higher percentage of the premiums?

Right now, you don't qualify for the tax credit because you aren't paying 50% or more of their premiums. However, you don't have to start immediately. You can start taking the tax credit whenever you do qualify, whether that is right now or a year from now.

Question #8: I'm an uninsured solo attorney. Can I get government health care now?

There is no government health care. There is government health *insurance*. The Reform Bill does not create “government doctors” or hospitals for the poor. What the legislation does is expand access to insurance for the uninsured working class. Now, if the question is whether you can get government health *insurance* now, the answer is, it depends. If you have a preexisting condition and have not had insurance for 6 months, then as of June 2010, you qualify for the national high-risk pool that will provide temporary relief (until 2014). If not, you will have to wait until 2014 when Medicaid is expanded to people making up to 133% of the Federal Poverty Level (“FPL”) guidelines (right now, for a family of 4, 133% of FPL would be \$29,327). If you make over 133% of FPL, you will never qualify for government health insurance, although you might qualify for tax credits.

Question #9: My cousin is an immigrant. Will he be able to get health insurance now?

It depends on his legal status. Illegal/undocumented immigrants will be among the estimated 23 million people in America who will remain uninsured, even with the Reform Bill. Documented immigrants will be permitted to buy insurance on the exchanges, and will even qualify for subsidies. Legal immigrants who have been in the country for at least 5 years can generally qualify for Medicaid.⁶⁷

Question #10: How is the government going to pay for all this?

Taxes, of course! Individuals earning \$200,000 or more and married couples earning \$250,000 will see increased Medicare payroll taxes, and an additional 3.8% tax on unearned income (investment interest and taxable capital gains). The other way the government is paying for this is cutting Medicaid benefits. So, while a lot more people will qualify for Medicaid, the actual benefits they receive under the plan will be reduced. There is also the issue discussed in the Answer to Question 6 about how employers will be required to disclose

⁶⁷ The New York Times Prescriptions Blog, "Will Inmates Be Allowed to Use the Exchanges? Immigrants?" (available at: <http://tinyurl.com/26ptful>, last visited May 1, 2010).

employee benefits on their W-2s. The details aren't clear, but this might add to your documented income and raise the amount that you pay taxes on. (Technically, you are supposed to be reporting employee benefits as income already, but many people don't). More people might have to itemize in order to take a healthcare deduction, although of course this is an alternative to the existing self-employment health insurance deduction.

Question #11: How can the federal government tell me I have to purchase health insurance? Isn't that unconstitutional?

The Attorney Generals of 14 states seem to think so. The following states have filed suit against the federal government to challenge the interference: Alabama, Colorado, Florida, Idaho, Louisiana, Michigan, Nebraska, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Virginia and Washington.⁶⁸ The challenge centers on the individual mandate, and whether it is within the federal government's powers to order a person to purchase something as a requirement of mere U.S. residency.

⁶⁸ MSNBC, "State attorneys general sue over health bill," March 23, 2010 (available at: <http://www.msnbc.msn.com/id/36001783>, last visited May 1, 2010).

Question #12: My grandmother says she is waiting for her “Obama check” whenever health care comes up. What is she talking about?

Hard to say, but she might be talking about the rebate checks that insurance companies will be required to send policy holders if the insurer spends more than 20% (15% for group plans) on administrative costs, profits, and executive salaries. Starting in 2011, if an insurance company doesn't spent a sufficient portion of premiums on medical care, then they'll have to send rebate checks back to their policy holders to make up the difference.

Question #13: I keep hearing about the “public option,” but I’m lost. What is it and how do I qualify?

A “public option” is a way of saying that the government would offer a competitive health insurance plan. This public option would have gone up for sale alongside the private plans when the exchanges go into effect in 2014. Everyone would have qualified for it. However, the final version of the Reform Bill did not contain a public option, so unless additional legislation is passed, it doesn't exist.⁶⁹

⁶⁹ The New York Times, “A Grand Achievement, or a Lost Opportunity?,” March 24, 2010 (available at: <http://tinyurl.com/2cwl6q>, last visited May 1, 2010).

RESOURCES

Office of Speaker Nancy Pelosi, “Health Insurance Reform” (available at: <http://tinyurl.com/yb9pde2>, last visited May 1, 2010). *This is the gateway website for the plethora of materials on the Reform Bill.*

Office of Speaker Nancy Pelosi, “Key Provisions That Take Effect Immediately,” April 2, 2010 (available at: <http://tinyurl.com/y8qjo4p>, last visited May 1, 2010). *This factsheet tells you what parts of the Reform Bill are applicable immediately.*

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