



# Preparing for Open Enrollment Under Health Care Reform

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As employers head into open enrollment season, they face the first big changes mandated by healthcare reforms. The first provisions of the Patient Protection and Affordable Care Act and Health Care and Education Reconciliation Act of 2010 take effect for plan years beginning on or after September 23. While the Act's complexities prevent a "one size fits all" approach, the following guidelines sort out the complexities of compliance.

A number of new requirements take effect for employer sponsored group health plans for plan years beginning on or after September 23 (for many plans, the effective date is January 1, 2011). These include:

- the elimination of lifetime limits,
- the elimination of some annual limits,
- the elimination of pre-existing condition exclusions for children under 19,
- the expansion of coverage for children to age 26,
- first dollar coverage for preventive care,
- expanded claims requirements,
- nondiscrimination requirements for insured health plans, and
- certain patient protections relating to emergency services and the designation of primary care physicians.

Also, beginning in 2011 (regardless of the plan year), health care flexible spending accounts may no longer reimburse participants for over-the-counter non-prescription drugs (other than insulin). Further, beginning with the Form W-2 due for 2011, the cost of health coverage must be reported on the form.

The first decision employers must make is whether they wish to maintain "grandfathered" status. Plans that choose grandfathered status will get additional time to comply with several of the Act's provisions including: first dollar coverage requirements for preventive care, coverage for children to age 26 (so long as the children have other health coverage available), compliance with expanded claims requirements, and compliance with new nondiscrimination requirements. Avoiding these new requirements – particularly the first dollar coverage and expanded coverage for children – may result in significant savings. Grandfathered plans are, however, subject to the other provisions.

The downside to choosing the grandfathered option includes serious limitations to changing benefits and contribution levels from those in existence on March 23, 2010. Further, grandfathered status means additional administrative requirements, including employee notifications and increased recordkeeping. Many employers find that the cost and burdens of complying with these limitations and administrative requirements outweigh the advantages and savings of maintaining grandfathered status.

No matter which option you choose, businesses have much ground to cover over the following months. A good starting point is to determine cost impacts of the new benefit mandates. In addition, there are a number of administrative responsibilities required for compliance, such as notifying employees of and providing them with a special enrollment period for older children now eligible for coverage and for individuals who have lost coverage due to lifetime limits, notifying employees of the new patient

protections, implementing new claims processing requirements, and updating payroll processes to record the cost of health care coverage for W-2 reporting. Also, businesses will need to make required plan amendments and notify participants about them.

While time to act is now, employers would do well to proceed wisely. Consult with your insurers, third party administrators and legal team to figure out which option to choose and

what costs will be incurred. Work with your human resources team to incorporate the new notices and special enrollment periods into your annual enrollment processes and to update plan documents. While the various health care requirements continue to change and evolve over time it is more important than ever to remain vigilant in your compliance efforts to avoid falling behind.