

GROOM LAW GROUP

Effective Dates for Key Provisions in the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act of 2010

| DATE | PROVISION |
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| Date of Enactment | <ul style="list-style-type: none"> • Rate Review. HHS, with the States, shall annually review "unreasonable" increases in health insurance coverage premiums. (§ 1003, PHSA § 2794) • Consumer Information. Secretary shall award grants to states to establish offices of health insurance consumer assistance or health insurance ombudsman programs. Programs will assist with the filing of complaints and appeals, collect, track and quantify problems encountered by customers, educate consumers on their rights and responsibilities regarding health care coverage, assist consumers with enrollment, and resolve problems with premium tax credits. (§ 1002, PHSA § 2793) • Grandfather Provision. Group health plan or health insurance coverage in which an individual was enrolled on the date of enactment of the Act is grandfathered indefinitely, although still subject to some of the insurance reforms (as indicated), as well as the employer mandates and excise tax. Plans are allowed to enroll family members and new employees. It is an open issue regarding whether changes to the plan impact grandfather status. It appears that the grandfather provision applies to collectively bargained plans as well as non-collectively bargained plans, and that, with respect to health insurance coverage under a collective bargaining agreement ratified before the date of enactment, none of the grandfathered exceptions apply until the date on which the last CBA relating to coverage terminates. (§ 1251, § 10103(h); HCEARA § 2301) • Auto Enrollment. Pursuant to regulation, employers with more than 200 employees that offer coverage must automatically enroll new full-time employees in coverage with the opportunity to opt-out. Apparent effective date is date of enactment because no effective date is given, but likely will "apply" when regulations are issued. (§ 1511, FLSA § 18A) |
| 1/1/2010 | <ul style="list-style-type: none"> • Small Business Tax Credits. Tax credits for small employers of up to 35% of employer costs (formula based on size, income of employees, etc.). (§ 1421, § 10105(e)(1)) |
| 90 Days Post-Enactment | <ul style="list-style-type: none"> • Temporary High Risk Pool. A temporary high-risk health insurance pool shall be established to provide coverage for eligible individuals with a preexisting condition who have no health care coverage. The pool will exist until 2014 (when Exchanges are operational). If Secretary finds an insurer or employer has encouraged an individual to disenroll and enroll in the high risk pool, the insurer or employer must reimburse the pool. (§ 1101) • Temporary Reinsurance for Early Retirees. Temporary program would reimburse plans for certain retiree coverage for retirees who are between 55 and 65 and who are not Medicare-eligible. It would pay 80 percent of claims between \$15,000 and \$90,000 (includes both insured and self-funded benefits). Reimbursement must be used to reduce costs, premium or cost-sharing of plan participants. (Ends in 2014 or when \$5 billion has been spent). (§ 1102) |
| 7/1/2010 | <ul style="list-style-type: none"> • Internet Portal. Requires HHS to develop an Internet consumer tool to facilitate shopping for affordable coverage by individuals and small employers. (§ 1103(a), § 10102(b)) |

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| Plan Years Beginning On or After 6 Months Post-Enactment (Even to Grandfathered Plans) | <ul style="list-style-type: none"> No pre-existing exclusions for enrollees under age 19. (§ 10103(e), PHSA § 2704) Extension of coverage of adult children to age 26 (but not applicable if adult child is eligible for employer coverage before 1/1/14). (§ 1001, PHSA § 2714; HCEARA § 1004(d)(3)(b); § 2301(a)-(b)) Restrictions on coverage rescissions, unless fraud or intentional misrepresentation by the enrollee. (§ 1001, PHSA § 2712; HCEARA § 2301(a)) No annual or lifetime dollar limits on "essential" benefits (Secretary may allow restricted annual limits before 1/1/14). (§ 1001, PHSA § 2711; HCEARA § 2301) Medical Loss Ratio. Insurer must annually report percentage of premium spent on non-claims. As of 1/1/11, must provide rebate to enrollees if more than 15% of premium revenue is expended on non-claims costs (for large groups) or 20% (for small group and individual market). States may adopt a higher percentage. (§ 1001, PHSA § 2718; § 10101(f)) |
| Plan Years Beginning On or After 6 Months Post-Enactment (Not Applicable to Grandfathered Plans) | <ul style="list-style-type: none"> Appeals process required to allow for appeals of coverage determinations and claims (includes internal appeals and external review). (§ 1001, PHSA § 2719, 10101(g)) Insured group health plans are subject to the requirements of IRC section 105(h)(2) (relating to the prohibition on discrimination in favor of highly compensated individuals). (§ 1001, PHSA § 2716, § 10101(d)) Must cover emergency services without prior authorization and in-network. (§ 10101(h), PHSA § 2719A) Must allow designation of OB/GYN and Pediatrician as Primary Care Provider. (§ 10101(h), PHSA § 2719A) Must cover preventive care without cost sharing (as defined in the Act). (§ 1001, PHSA § 2713) |
| 2011 | |
| 1/1/11 | <ul style="list-style-type: none"> Medical Loss Ratio. Beginning not later than 1/1/2011, medical loss ratio requirement with rebates (see above). (§ 1001, PHSA § 2718, § 10101(f)) HSA, FSA, HRA Changes. <ul style="list-style-type: none"> The definition of qualified medical expense for HSAs, FSAs, and HRAs is amended to exclude over-the-counter medicine unless obtained with a prescription or is insulin. (§ 9003) Increase in additional tax on distributions from HSAs not used for qualified medical expenses to 20%. (§ 9004) W-2 Reporting. Must include aggregate cost of employer-sponsored health coverage on annual Form W-2. (§ 9002, IRC § 6051(a)) |
| 2012 | |
| 24 Months Post-Enactment | <ul style="list-style-type: none"> Summary of Coverage. Insurers and plan sponsors of self-funded plans must provide summary of benefits to all participants and applicants, based on format set by Secretary, using uniform definitions and stating whether the plan provides minimum essential coverage and whether ensures the plan's share of costs is at |

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| | <p>least 60% of actuarial value. (§ 1001, PHSA § 2715)</p> <ul style="list-style-type: none"> • Advance Notice of mid-year changes. Plan must provide 60-days advance notice of changes to summary of benefits. (§ 1001, PHSA § 2715(d)(4)) • Quality of Care Reporting. Plans and insurers must report on plan benefits and reimbursement structures that provide incentives for the implementation of case management, care coordination, chronic disease management, and medication and care compliance activities for treatment or services under the plan or coverage; the implementation of activities to prevent hospital readmissions; improving patient safety and reducing medical errors through best clinical practices, evidence based medicine, and health information technology; and the implementation of wellness and health promotion activities. (§ 1001, PHSA § 2717) |
| Policy or Plan Years Ending After 9/30/12 | <ul style="list-style-type: none"> • Comparative Effectiveness Research Fees. Insurers will contribute \$2 multiplied by the number of lives covered under each health insurance policy (including self-insured plans) and \$1 for plan years ending during fiscal year 2013. (§ 6301(d), IRC §§ 4375, 4376) |
| Beginning 2012 and extending through 2016 | <ul style="list-style-type: none"> • Administrative Simplification. Secretary to adopt final rule for unique health plan identifier and EFT standard. Secretary to adopt operating rules for standard transactions. Plans must certify compliance. (§ 1104, SSA § 1171) |
| 2013 | |
| 1/1/13 | <ul style="list-style-type: none"> • Executive Compensation. \$500,000 deduction limit for current and deferred compensation paid to officers, directors, employees, and service providers of health insurers for taxable years beginning after 2012 with respect to services performed after 2009. (§ 9014) • FSA Changes. Limits FSA contributions to \$2,500, indexed in future years. (§ 9005, § 10902; HCEARA § 1403) |
| 3/1/13 | <ul style="list-style-type: none"> • Employer notice requirements. Employer requirement to provide written notice informing employees about the Exchange, and their potential eligibility for premium credits if the employer's share of costs is less than 60% of the allowed total cost of benefits. (§ 1512, FLSA § 18B) |
| 2014 | |
| 1/1/14 | <ul style="list-style-type: none"> • Plan Design Changes and Benefit Mandates: Coverage requirements outside the exchange: <ul style="list-style-type: none"> ○ Coverage of essential benefits for individual and small group plans. (§ 1201, PHSA § 2707(a)) ○ Cost-sharing limits for group health plans. (§ 1201, PHSA § 2707(b)) ○ Guaranteed issue. (§ 1201, PHSA §§ 2702, 2705) ○ Guaranteed renewal. (§ 1201, PHSA § 2703) ○ No preexisting condition exclusions, includes grandfathered plans (this provision is effective for plan years beginning 6 months on or after the date of enactment for enrollees under 19 years of age). (§ 1201, PHSA § 2704, § 10103(e); HCEARA § 2301(b)) ○ Plans and insurers must not discriminate against any provider with respect to participation in the plan. (§ 1201, PHSA § 2706) |

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| | <ul style="list-style-type: none"> ○ No eligibility waiting periods of more than 90 days for group coverage, includes grandfathered plans. (§ 1201, PHSA § 2708; HCEARA § 2301(a)) ○ Coverage of routine costs for clinical trial participants. (§ 10103(c)) ● Individual Mandate. Becomes effective, with penalty for noncompliance being the greater of \$95 per individual OR 1% of household income over the filing threshold (phasing up to \$695 or 2.5% in 2016) (§ 1501(b), IRC § 5000A(c), § 10106(b); HCEARA § 1002) ● Individual Subsidies. <i>Effective for taxable years beginning after 12/31/13:</i> <ul style="list-style-type: none"> ○ Premium credits. (§ 1401, IRC § 36B, § 10105(a)-(c), § 10107(h); HCEARA § 1001(a)) ○ Cost-sharing subsidies. (§ 1402; HCEARA § 1001(b)) ● Employer Provisions. <ul style="list-style-type: none"> ○ Employer reports on whether minimum essential coverage was offered, and specifics of plan as required by the Secretary. (§ 1514, IRC § 6056) ○ Employer mandate penalizes employers with more than 50 employees who do not provide affordable insurance to full-time employees or for any full-time employee who receives premium assistance from the Federal Government. (§ 1513, IRC § 4980H, § 10106(e); HCEARA § 1003) ○ Employers required to provide Free Choice Vouchers to qualified employees. (§ 10108, IRC § 139D) ● Health Insurance Exchange. Following reforms become effective: <ul style="list-style-type: none"> ○ States must establish exchanges. (§ 1311(b)). <ul style="list-style-type: none"> ▪ States electing to establish an exchange are required to either adopt federal standards with regard to exchanges, QHBPs, risk adjustment and reinsurance programs OR adopt and have in effect a state law/regulation that HHS determines implements the federal standards. (§ 1321(a)-(b)) ○ Requirements to qualify as a "qualified health plan." (§ 1301(a)) ○ Coverage that qualifies as an "essential health benefits package." (§ 1302(b)) ○ Director of OPM shall enter into contracts with insurers to offer Multi-state Plans through Exchange. (§ 10104(q)) ○ Other coverage requirements inside the exchange: <ul style="list-style-type: none"> ▪ Equal in scope to typical employer-sponsored plan. (§ 1302(b)(2)(A)) ▪ Cost-sharing limits (<i>plan years beginning in 2014</i>). (§ 1302(c)) ▪ Requirements for different benefit levels/actuarial values. (§ 1302(d)-(e)) ● Offering of Exchange-Participating QHBPs through Cafeteria Plans. (§ 1515, IRC § 125(f)) ● State Basic Health Plan Option. (§ 1331, § 10104(o)) ● Small Group Subsidies. Tax credits increase to up to 50% of employer costs (35% if tax exempt). (§ 1421, IRC § 45R) |

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| | <ul style="list-style-type: none"> • Premium Variation for Participation in Employer-Sponsored Wellness Programs. Permits employers to vary premiums by as much as 30% for employee participation in certain health promotion and disease prevention programs. (§ 1201, PHSA § 2705) • Insurance Market Reforms. <ul style="list-style-type: none"> ○ Uniform application of rating rules. (§ 1252) ○ Individual market reinsurance program (2014-2016). (§ 1341; § 10104(r)) ○ Risk corridors for individual and small group markets (2014-2016). (§ 1342) • Insurer Fee. An annual fee applied to any entity engaged in the business of providing health insurance. (§ 9010, § 10905; HCEARA § 1406) |
| 2015 | |
| 1/1/15 | <ul style="list-style-type: none"> • Exchanges must be self-sustaining. (§ 1311(d)(5)) • Individual Mandate. Penalty for noncompliance increases to \$325 or 2% of household income over filing threshold. (§ 1501(b), IRC § 5000A(c); HCEARA § 1002) |
| 1/31/15 | <ul style="list-style-type: none"> • Employer Reporting of Health Insurance Coverage. Every person who provides minimum essential coverage to an individual during a calendar year shall make a return as prescribed by the Secretary. (§ 1502(a), IRC § 6055) |
| 2016 | |
| 1/1/16 | <ul style="list-style-type: none"> • Individual Mandate. Penalty for noncompliance increases to \$695 or 2.5% of household income over filing threshold. (§ 1501(b), IRC § 5000A(c); HCEARA § 1002) |
| 2017 | |
| 1/1/17 | <ul style="list-style-type: none"> • Large Employers in Exchange. States may permit large employers to purchase coverage through Exchanges. (§ 1312 (f)(2)(B)) |
| 2018 | |
| 1/1/18 | <ul style="list-style-type: none"> • Tax on High-Cost Plans. 40% excise tax on employer-sponsored health benefits above a threshold. (§ 9001, IRC § 49801 , § 10901; HCEARA § 1401) |

Key to Abbreviations

- PPACA: Patient Protection and Affordable Care Act (enacted March 23, 2010)
- HCEARA: Health Care and Education Affordability Reconciliation Act of 2010 (enacted March 30, 2010)
- FLSA: Fair Labor Standards Act
- PHSA: Public Health Service Act
- IRC: Internal Revenue Code
- SSA: Social Security Act