

Updated 2010-03-30

**Key Issues for Large Employer Health Plan Sponsors  
From Senate-Passed Bill (H.R. 3590) as Revised**

	Senate Bill (H.R. 3590) as passed by Senate on Dec. 31, 2009	Reconciliation Bill (H.R. 4872) as passed by Senate on March 25, 2010
<b>Employer Fees</b>		
<ul style="list-style-type: none"> <li>• Free Rider penalty (which is not deductible by employers)               <ul style="list-style-type: none"> <li>○ If no coverage offered, and at least one full-time employee (30+ hours per week, assessed on a monthly basis) receives a tax credit to buy insurance through the Exchange, penalty is \$750* X total number of full-time employees*</li> <li>○ Applies to employers with over 50 full-time employees*, no exemption for seasonal workers</li> <li>○ If coverage offered to an individual with family income up to 400% of FPL but <i>either</i> the actuarial value is less than 60% or any employee's required premium is greater than 9.8%* of income (thus entitling the employee to a tax credit), penalty is <i>lesser of</i>:                   <ul style="list-style-type: none"> <li>▪ \$750* X total number of full-time employees, or</li> <li>▪ \$3,000 X number of employees receiving the tax credit</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1513; MA Sec. 10106(f) (See also new Code Section 36B for 60% and 9.8% requirements)</li> <li>• Effective beginning 2014</li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1003 (see also Sec. 1001 amendment to Code Section 36B)</li> <li>• Increases \$750 penalty to \$2,000</li> <li>• Part-time employees (on a full-time equivalent basis) are included when determining if an employer has 50 employees</li> <li>• When calculating tax due, subtract first 30 full-time employees</li> <li>• 9.8% premium threshold reduced to 9.5%</li> </ul>
<ul style="list-style-type: none"> <li>• Wyden free choice vouchers               <ul style="list-style-type: none"> <li>○ An employer that provides and contributes to health coverage for employees must provide free choice vouchers to each employee who is required to contribute between 8% and 9.8%* of the employee's household income toward the cost of coverage, if such employee's household income is &lt;400% FPL and the employee does not enroll in a health plan sponsored by the employer</li> <li>○ 8% and 9.8% are to be indexed to the rate of premium growth</li> <li>○ Employees may use the vouchers to purchase coverage through</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• MA Sec. 10108</li> <li>• Effective beginning Jan. 1, 2014</li> </ul>	<ul style="list-style-type: none"> <li>• Note: 9.8% is not reduced to 9.5% to coordinate with the Free Rider penalty, but the Joint Committee on Taxation's summary of the bill indicates the appropriate threshold is 9.5%</li> </ul>

\* = Provision is modified by Reconciliation Bill

Code = Internal Revenue Code

CPI = Consumer Price Index

DOE = Date of Enactment

FPL = Federal Poverty Level

MA = Manager's Amendment released on Dec. 19, 2009 (passed with Senate bill on Dec. 31, 2009)

PHSA = Public Health Service Act

TBD = To be determined

	<b>Senate Bill (H.R. 3590) as passed by Senate on Dec. 31, 2009</b>	<b>Reconciliation Bill (H.R. 4872) as passed by Senate on March 25, 2010</b>
<p>the Exchange and employers will pay amounts directly to the Exchange</p> <ul style="list-style-type: none"> <li>○ If the cost of the Exchange coverage costs less than the voucher, the difference will be paid to the employee</li> <li>○ The amount of the voucher must be equal to the amount the employer would have provided toward such employee's coverage (individual vs. family based on the coverage the employee elects through the Exchange) with respect to the plan to which the employer pays the largest portion of the cost</li> <li>○ The cost of the plan is to be determined under rules similar to COBRA, except that they will be adjusted for age and category of enrollment (e.g., employee-only, employee+1, family) in accordance with regulations to be established</li> <li>○ Amounts paid toward the cost of coverage under the Exchange are excluded from the employee's income and the employer receives a tax deduction for the amount of the voucher</li> <li>○ No free rider penalty will be imposed with respect to employees who receive vouchers</li> </ul>		
<ul style="list-style-type: none"> <li>• Per participant fee on employer plan-sponsors for comparative effectiveness research <ul style="list-style-type: none"> <li>○ \$1 per participant for the first plan year ending after 9/30/2012 (2012 for calendar year plans); \$2 per participant for the following year; multiply by "national health expenditures" through 2019 (fee sunsets after 2019)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 6301</li> <li>• Effective beginning first plan year ending after Sept. 30, 2012</li> </ul>	
<ul style="list-style-type: none"> <li>• The Secretary of Labor must study and report to Congress on whether the employees fees and assessments would result in a reduction in employee wages <ul style="list-style-type: none"> <li>○ Determination is based on Bureau of Labor Statistics National Compensation Survey</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1513(c)</li> <li>• Report due date is unclear</li> </ul>	
<b>Group Health Plan Mandates</b>		
<ul style="list-style-type: none"> <li>• \$600 non-deductible penalty per full-time employee in a 60-90 day waiting period*</li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1513; MA Sec. 10106(e)</li> <li>• Effective beginning Jan. 1, 2014</li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1003</li> <li>• Eliminates these penalties</li> </ul>
<ul style="list-style-type: none"> <li>• Prohibits waiting periods greater than 90 days</li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1201 (adds PHSA Sec. 2708)</li> <li>• Effective plan years beginning on or after Jan. 1,</li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 2301</li> <li>• Eliminates grandfather</li> </ul>

	<b>Senate Bill (H.R. 3590) as passed by Senate on Dec. 31, 2009</b>	<b>Reconciliation Bill (H.R. 4872) as passed by Senate on March 25, 2010</b>
	2014, but grandfather applies*	
<ul style="list-style-type: none"> <li>Must cover unmarried* adult children to age 26</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1001(adds PHSA Sec. 2714)</li> <li>Effective plan years beginning 6 months after DOE, but grandfather applies*</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 2301; tax treatment in Sec. 1004(d)</li> <li>No grandfather beginning in 2014; prior to 2014, grandfather applies but must cover adult children who are not eligible for other employer-sponsored coverage</li> <li>Must cover any children up to age 26, even if married</li> <li>Extends income tax exclusion for coverage for adult children who have not turned 27 as of the end of the year</li> </ul>
<ul style="list-style-type: none"> <li>Imposes restrictions on lifetime and annual limits</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1001 (adds PHSA Sec. 2711); MA Sec. 10101(a)</li> <li>No lifetime limits beginning the plan year that begins 6 months after DOE</li> <li>No annual limits for plan years beginning on or after Jan 1, 2014</li> <li>Restrictions on annual limits (TBD by regulations) effective for plan years beginning prior to Jan. 1, 2014</li> <li>Grandfather applies to restrictions on both lifetime and annual limits*</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 2301</li> <li>Eliminates grandfather for both lifetime and annual limits</li> </ul>
<ul style="list-style-type: none"> <li>May not limit coverage for preexisting conditions</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1201 (adds PHSA Sec. 2704); MA Sec. 10103(e)</li> <li>Generally effective beginning in 2014</li> <li>For children under age 19, effective plan years beginning 6 months after DOE</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 2301</li> <li>Eliminates grandfather for both limits</li> </ul>

	<b>Senate Bill (H.R. 3590) as passed by Senate on Dec. 31, 2009</b>	<b>Reconciliation Bill (H.R. 4872) as passed by Senate on March 25, 2010</b>
	<ul style="list-style-type: none"> <li>• Grandfather applies to both limits*</li> </ul>	
<ul style="list-style-type: none"> <li>• Must limit cost sharing to the out-of-pocket maximum for HSA-qualified high deductible health plans</li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1201 (adds PHSA Sec. 2707(b)); see also Sec. 1302(c)(1)</li> <li>• Effective plan years beginning on or after Jan. 1, 2014, but grandfather applies</li> </ul>	
<ul style="list-style-type: none"> <li>• Deductibles may not exceed \$2,000 for individual coverage or \$4,000 for family coverage</li> <li>• May be increased by the maximum reimbursement available from a health FSA</li> <li>• Amounts are indexed to inflation of average health premiums</li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1201 (adds PHSA Sec. 2707(b)); see also Sec. 1302(c)(2)</li> <li>• Effective plan years beginning on or after Jan. 1, 2014, but grandfather applies</li> </ul>	
<ul style="list-style-type: none"> <li>• Must provide preventive care without cost sharing, and cover certain child preventive services as recommended by U.S. Preventive Service Task Force, CDC, and the Health Resources and Services Administration</li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1001 (adds PHSA Sec. 2713)</li> <li>• Effective plan years beginning 6 months after DOE, but grandfather applies</li> </ul>	
<ul style="list-style-type: none"> <li>• Must cover clinical trials for life-threatening diseases (for benefits that would otherwise be covered and subject to the plan's restrictions on out-of-network providers)</li> </ul>	<ul style="list-style-type: none"> <li>• MA Sec. 10103(c)</li> <li>• Effective plan years beginning on or after Jan. 1, 2014, but grandfather applies</li> </ul>	
<ul style="list-style-type: none"> <li>• Group health plan must implement an effective internal appeals process; provide notice to participants of available internal and external appeals processes and the availability of any applicable office of health insurance consumer assistance or ombudsman established under the bill to assist such enrollees with the appeals processes; and allow participants to review their files, present evidence and testimony as part of the appeals process, and to receive continued coverage pending the outcome of the appeals process</li> <li>• Self-funded group health plans must implement an external review process in accordance minimum standards to be created by the Secretary</li> <li>• Insured plans will have to satisfy external review requirements mandated by the state, which will be binding, or by the Secretary, but only if the state doesn't have procedures</li> </ul>	<ul style="list-style-type: none"> <li>• MA Sec. 10101(g)</li> <li>• Effective plan years beginning 6 months after DOE, but grandfather applies</li> </ul>	

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<ul style="list-style-type: none"> <li>Requires that a plan enrollee be allowed to select their primary care provider, or pediatrician in the case of a child, from any available participating primary care provider</li> <li>Precludes the need for prior authorization or increased cost-sharing for emergency services, whether provided by in-network or out-of-network providers</li> <li>Plans are precluded from requiring authorization or referral to Ob-Gyn</li> </ul>	<ul style="list-style-type: none"> <li>MA Sec. 10101(h)</li> <li>Effective plan years beginning 6 months after DOE</li> </ul>	
<ul style="list-style-type: none"> <li>Prohibits rescission of group health plan coverage without prior notice</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1001(adds PHSA Sec. 2712)</li> <li>Effective plan years beginning 6 months after DOE, but grandfather applies*</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 2301</li> <li>Eliminates grandfather</li> </ul>
<ul style="list-style-type: none"> <li>Grandfather: <ul style="list-style-type: none"> <li>Grandfather available for individuals enrolled in a plan on DOE, subsequently-enrolled family members, and new hires</li> <li>Applies to coverage mandates, but not free rider</li> <li>Unclear what would cause grandfather to end</li> <li>Collectively bargained plans are grandfathered until the date on which the last of the collective bargaining agreements relating to the grandfathered coverage in effect on DOE terminates</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1251</li> </ul>	
<b>Other Provisions Impacting Plan Design</b>		
<ul style="list-style-type: none"> <li>FSA contributions are capped at \$2,500, indexed to CPI</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 9005; MA Sec. 10902</li> <li>Effective taxable years beginning after Dec. 31, 2010*</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1403</li> <li>Effective taxable years beginning after Dec. 31, 2012</li> </ul>
<ul style="list-style-type: none"> <li>Prohibits pre-tax reimbursement of non-prescribed over-the-counter drugs from FSAs, HRAs, HSAs</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 9003</li> <li>Effective taxable years beginning after Dec. 31, 2010</li> </ul>	
<ul style="list-style-type: none"> <li>Codifies HIPAA wellness rules and increases 20% incentive cap to 30% with Secretary discretion to increase to 50%</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1201(adds PHSA Sec. 2705)</li> <li>Effective plan years beginning on or after Jan. 1, 2014</li> </ul>	
<ul style="list-style-type: none"> <li>Wellness programs may not require the disclosure or collection of any information relating to presence of firearms, and may not base</li> </ul>	<ul style="list-style-type: none"> <li>MA Sec. 10101(e)</li> <li>Effective plan years</li> </ul>	

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premiums, discounts, rebates, or rewards on the basis of firearm or ammunition ownership	beginning 6 months after DOE	
<ul style="list-style-type: none"> <li>Code Section 105(h) nondiscrimination rules that apply to self-funded plans will apply to insured plans as well</li> </ul>	<ul style="list-style-type: none"> <li>MA Sec. 10101(d) (adds PHSA Sec. 2716)</li> <li>Effective plan years beginning 6 months after DOE, but grandfather applies</li> </ul>	
<ul style="list-style-type: none"> <li>Temporary reinsurance program for employers providing health coverage to retirees over age 55 who are not eligible for Medicare. <ul style="list-style-type: none"> <li>Reimburses employers for 80% of claims between \$15,000 - 90,000 (indexed for inflation)</li> <li>Ends on January 1, 2014</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1102</li> <li>Effective within 90 days of DOE</li> </ul>	
<ul style="list-style-type: none"> <li>Increases the adoption assistance exclusion (\$12,170 for 2009) by \$1,000</li> </ul>	<ul style="list-style-type: none"> <li>MA Sec. 10909</li> <li>Effective taxable years beginning after Dec. 31, 2009</li> </ul>	
<ul style="list-style-type: none"> <li>Clarifies that rating requirements do not apply to self-funded plans</li> </ul>	<ul style="list-style-type: none"> <li>MA Sec. 10103</li> </ul>	
<b>Revenue Provisions</b>		
<ul style="list-style-type: none"> <li>Excise tax on high-cost plans <ul style="list-style-type: none"> <li>40% nondeductible tax</li> <li>Applies to insurance company or administrator (or employer that makes HSA or MSA contributions); expected to be passed directly to employers</li> <li>The threshold is \$8,500* for individual coverage, \$23,000* for family coverage; thresholds for retirees over age 55 and individuals in high-risk professions are \$9,850* for individual coverage, \$26,000* for family coverage</li> <li>Annual threshold amounts and tax are calculated monthly</li> <li>Includes employer and employee contributions made on a pre-tax or after-tax basis</li> <li>Includes all health coverage (e.g., medical, dental*, vision*, FSA, HRA, HSA, on-site clinics; appears that wellness programs that qualify as ERISA health plans are included); accident, disability, long-term care, and after-tax indemnity or specified disease coverage are excluded</li> <li>Indexed to CPI-U + 1%*</li> <li>Applies to active and retired participants*; employer has the</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Sec. 9001; MA Sec. 10901</li> <li>Effective beginning with taxable years beginning after Dec. 31, 2012*</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1401</li> <li>Effective taxable years beginning after Dec. 31, 2017</li> <li>Increases the threshold from \$8,500 to \$10,200 for individual coverage, from \$23,000 to \$27,500 for family coverage; increases threshold for individuals in high-risk professions from \$9,850 to \$11,850 for individual coverage, from \$26,000 to \$30,950 for family coverage</li> <li>To the degree that health costs rise unexpectedly quickly between now and 2018, the initial threshold would be adjusted upwards automatically.</li> <li>Includes an adjustment for plans</li> </ul>

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<ul style="list-style-type: none"> <li>option to combine pre-65 and post-65 retirees groups when calculating "value"</li> <li>○ Employer must calculate value of coverage on an individual basis and report to insurance companies/Treasury, subject to mandatory failure-to-report penalties</li> <li>○ 3-year transition for the 17 highest-cost states, to be determined each year*</li> </ul>		<p>that have higher than average costs due to the age or gender of their workers</p> <ul style="list-style-type: none"> <li>● Excludes dental and vision</li> <li>● Indexes thresholds to CPI-U+1% in 2019 and to CPI-U beginning in 2020</li> <li>● Clarifies excise tax applies to former employees, surviving spouses, and other primary insured individuals</li> <li>● Eliminates transition for high cost states</li> </ul>
<ul style="list-style-type: none"> <li>● Tax on health insurance industry <ul style="list-style-type: none"> <li>○ Annual fee imposed on companies that insure U.S. health risk, prorated by market share</li> <li>○ Fees are \$2* billion in 2011 phased up to \$10* billion in 2017</li> <li>○ May apply to reinsurance (disability, long-term care, accident, specified disease, and hospital indemnity are exempt)</li> <li>○ Fees associated with coverage for individuals who are U.S. citizens, U.S. residents, or located in the U.S. are all taken into account</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>● Sec. 9010; MA Sec. 10905(b)</li> <li>● Effective beginning Jan. 1, 2011</li> </ul>	<ul style="list-style-type: none"> <li>● Sec. 1406</li> <li>● Effective beginning Jan. 1, 2014)</li> <li>● The fees are increased to \$8 billion in 2014 and are phased up to \$14.3 billion in 2018, and indexed to the annual amount of premium growth in subsequent years</li> <li>● VEBA's established by non-employers are exempt</li> </ul>
<ul style="list-style-type: none"> <li>● Caps deductibility of compensation under Code Section 162(m) to \$500,000 for the health insurance industry</li> </ul>	<ul style="list-style-type: none"> <li>● Sec. 9014</li> <li>● Applies to current compensation paid during taxable years beginning after Dec. 31, 2012, and to deferred compensation for services performed in taxable years beginning after Dec. 31, 2009</li> </ul>	
<ul style="list-style-type: none"> <li>● Increases excise tax for nonqualified HSA withdrawals from 10% to 20%, and for Archer MSA withdrawals from 15% to 20%</li> </ul>	<ul style="list-style-type: none"> <li>● Sec. 9004</li> <li>● Effective for distributions made after Dec. 31, 2010</li> </ul>	
<ul style="list-style-type: none"> <li>● Additional 0.9% Medicare tax for employees (not employers) on wages over \$200,000 (\$250,000 for joint filers), for a total of 2.35%</li> </ul>	<ul style="list-style-type: none"> <li>● Sec. 9015; MA Sec. 10906</li> <li>● Effective beginning Jan. 1,</li> </ul>	<ul style="list-style-type: none"> <li>● Sec. 1402</li> <li>● Adds 3.8% tax on unearned</li> </ul>

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	2013	income (e.g., from interest, dividends, annuities, royalties, and rents) with respect to those with income over \$200,000 (\$250,000 for joint filers)
<b>Medicare-Related Provisions</b>		
<ul style="list-style-type: none"> <li>Eliminates the employer's deduction for the amount of the Medicare Part D retiree drug subsidy (<i>i.e.</i>, the employer's allowable deduction for retiree prescription drug expenses must be reduced by the amount of the tax-free subsidy payment received)</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 9012</li> <li>Effective taxable years beginning after Dec. 31, 2010*</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1407</li> <li>Effective taxable years beginning after Dec. 31, 2012</li> </ul>
<ul style="list-style-type: none"> <li>Establishes an Independent Payment Advisory Board</li> <li>Binding Medicare Recommendations: <ul style="list-style-type: none"> <li>Board must make recommendations to Congress to reduce Medicare spending and improve quality</li> <li>If Medicare costs projected to be unsustainable (unless growth is below the targeted growth rate), and Congress does not pass alternative act that achieves same level of savings, recommendations automatically take effect</li> <li>Proposals do not have to consider the cost-shifting or other impact on employer-sponsored plans</li> </ul> </li> <li>Non-binding Private Sector Recommendations: <ul style="list-style-type: none"> <li>The Board must make annual recommendations to the President, Congress, and private entities on actions they can take to improve quality and constrain the rate of cost growth in the private sector</li> </ul> </li> <li>Binding Recommendations Regarding Overall Health Spending: <ul style="list-style-type: none"> <li>Beginning in 2020, the Board must make binding biennial recommendations to Congress if the growth in overall health spending exceeds growth in Medicare spending</li> <li>Such recommendations would focus on slowing overall health spending while maintaining or enhancing beneficiary access to quality care under Medicare</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Sec. 3403; MA Sec. 10320</li> <li>Varying effective dates beginning in 2014</li> </ul>	
<ul style="list-style-type: none"> <li>States required to provide premium assistance and wrap-around benefits to any Medicaid beneficiary who is offered employer-sponsored insurance, if it is cost-effective for the state to do so (slight expansion of CHIPRA)</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 2003</li> <li>Effective beginning Jan. 1, 2014</li> </ul>	



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<ul style="list-style-type: none"> <li>Shrinks* the Part D donut hole, which may reduce cost for employer plans that wrap around Medicare or increase the amount of the retiree drug subsidy employers receive</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 3315</li> <li>Effective beginning 2010</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1101</li> <li>Eliminates donut hole by 2020</li> </ul>
<ul style="list-style-type: none"> <li>Expands Recovery Audit Contractor program to collect Medicare Secondary Payer claims to Parts C and D</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 6411</li> <li>No later than Dec. 31, 2011</li> </ul>	
<b>New Coverage Options and Individual Mandate</b>		
<ul style="list-style-type: none"> <li>States must establish Exchanges to offer private insurance choices to individuals and small business; federal government to establish minimum requirements <ul style="list-style-type: none"> <li>States may allow employers with more than 100 employees to purchase coverage through the Exchanges beginning Jan. 1, 2017</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Title I, Subtitle D</li> <li>Funding available to the states within 1 year after DOE</li> <li>Exchanges must begin offering coverage by Jan. 1, 2014</li> </ul>	
<ul style="list-style-type: none"> <li>States can apply for HHS or Treasury waiver (up to 5 years) of health plan requirements, exchanges, cost-sharing, tax credit, and individual and employer provisions</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1332</li> <li>Effective plan years beginning on or after Jan. 1, 2017</li> </ul>	
<ul style="list-style-type: none"> <li>If employer offers coverage, any employee may opt out and enroll in Exchange</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1513</li> </ul>	
<ul style="list-style-type: none"> <li>Loans and grants are available to establish non-profit, member-run, health insurance co-ops</li> <li>A public option is not included</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1322</li> <li>Loans and grants awarded by July 1, 2013</li> </ul>	
<ul style="list-style-type: none"> <li>All individuals must obtain qualifying coverage or pay a penalty <ul style="list-style-type: none"> <li>Penalty is the greater of \$95 in 2014, \$495* in 2015 and \$750* in 2016, or up to 2%* of income by 2016, up to a cap of the national average bronze plan premium</li> <li>Penalties are 50% for children up to a cap of \$2,250* for the entire family</li> <li>After 2016, index to CPI</li> </ul> </li> <li>Premium tax credits are available to individuals with family income up to 400% of FPL</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1501 (Code Sec. 5000A); MA Sec. 10106(b)</li> <li>Effective beginning Jan. 1, 2014</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1002</li> <li>Decreases penalties to \$325 in 2015 and \$695 in 2016, up to a maximum of \$2,085 or 2.5% of income by 2016</li> </ul>
<ul style="list-style-type: none"> <li>Individuals with coverage through any employer plans offered in the small or large group markets in a State will satisfy the individual mandate - no minimum coverage requirements</li> </ul>	<ul style="list-style-type: none"> <li>Sec. 1501 (Code Sec. 5000A)</li> </ul>	

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<b>Administrative Requirements</b>		
<ul style="list-style-type: none"> <li>• Employers must automatically enroll all eligible individuals in employer-sponsored coverage <ul style="list-style-type: none"> <li>○ Employer must provide adequate notice and opportunity to opt out</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1511</li> <li>• Effective date unclear</li> </ul>	
<ul style="list-style-type: none"> <li>• Creates government-run voluntary long-term care program (CLASS Act) <ul style="list-style-type: none"> <li>○ Employers are expected to automatically enroll employees and facilitate payroll deductions</li> <li>○ Employers may choose not to participate</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 8002</li> <li>• Effective beginning Jan. 1, 2011</li> </ul>	
<ul style="list-style-type: none"> <li>• Must provide 1099 for all corporate service providers receiving more than \$600 per year for services or property <ul style="list-style-type: none"> <li>○ Currently only applies to non-corporate service providers</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 9006</li> <li>• Effective beginning Jan. 1, 2012</li> </ul>	
<ul style="list-style-type: none"> <li>• New employer reporting requirement to enforce individual mandate <ul style="list-style-type: none"> <li>○ Must report whether employees were offered coverage, length of waiting period, lowest cost option, actuarial value, etc.</li> <li>○ Secretary has the authority to review for accuracy, particularly the amount of the large employer's share of the total allowed costs under the plan (presumably for purpose of determining whether the plan had an actuarial value of more or less than 60%)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1514; MA Sec. 10106(g)</li> <li>• Effective beginning Jan. 1, 2014</li> </ul>	
<ul style="list-style-type: none"> <li>• New employer W-2 reporting of the value of coverage provided by the employer</li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 9002</li> <li>• Effective taxable years beginning after Dec. 31, 2010</li> </ul>	
<ul style="list-style-type: none"> <li>• Plans must use government-developed uniform explanation of coverage documents</li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1001 (adds PHSA Sec. 2715); MA Sec. 10103(d)</li> <li>• Models to be developed within 1 year of DOE</li> <li>• Employers must begin notifying employees within 2 years of DOE</li> </ul>	
<ul style="list-style-type: none"> <li>• New employer notice requirements informing employees of the following: <ul style="list-style-type: none"> <li>○ Information about the state Exchanges</li> <li>○ If plan's share of total allowed costs of benefits is less than 60%</li> <li>○ Availability of a tax credit</li> <li>○ Availability of free choice vouchers</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Sec. 1512; MA Sec. 10108</li> <li>• Notice must be provided by March 1, 2013, or upon subsequent hire</li> </ul>	

	Senate Bill (H.R. 3590) as passed by Senate on Dec. 31, 2009	Reconciliation Bill (H.R. 4872) as passed by Senate on March 25, 2010
<ul style="list-style-type: none"> <li>• Group health plans will be required to provide the following transparency disclosures: <ul style="list-style-type: none"> <li>○ Claims payment policies and practices</li> <li>○ Periodic financial disclosures; data on enrollment, disenrollment, the number of claims that are denied, and rating practices</li> <li>○ Information on cost-sharing and payments with respect to any out-of-network coverage</li> <li>○ Information on enrollee and participant rights under the bill</li> <li>○ Other information required by the DOL/HHS</li> </ul> </li> <li>• Information must be provided to HHS and the public</li> </ul>	<ul style="list-style-type: none"> <li>• MA Sec. 10101(c) (adds PHSA Sec. 2715A); see also PHSA Sec. 1311(e)(3) as added by MA</li> <li>• Effective plan year beginning 6 months after DOE</li> </ul>	
<ul style="list-style-type: none"> <li>• HHS must conduct a study of the group health plan markets to compare characteristics of employers, plan benefits, financial solvency, etc. and determine the extent to which insurance market reforms are likely to cause adverse selection in the large group market or encourage small and midsize employers to self-insure</li> <li>• HHS and DOL are to collect information on the following: <ul style="list-style-type: none"> <li>○ The extent to which self-insured group health plans can offer less costly coverage and, if so, whether lower costs are due to more efficient plan administration and lower overhead or to the denial of claims and the offering very limited benefit packages</li> <li>○ Claim denial rates, plan benefit fluctuations (to evaluate the extent that plans scale back health benefits during economic downturns), and the impact of the limited recourse options on consumers</li> <li>○ Any potential conflict of interest as it relates to the health care needs of self-insured enrollees and self-insured employer's financial contribution or profit margin, and the impact of such conflict on administration of the health plan</li> </ul> </li> </ul> <p>The study may require collection of information from employers</p>	<ul style="list-style-type: none"> <li>• MA Sec. 10103(f) (adds PHSA Secs. 1253 and 1254)</li> <li>• Report due within 1 year of DOE</li> </ul>	
<ul style="list-style-type: none"> <li>• GAO must conduct a study of the incidence of benefit denials by group health plans <ul style="list-style-type: none"> <li>○ GAO shall consider samples of data concerning denials of coverage and the reasons for such denials, and will include data concerning denials that are subsequently approved</li> </ul> </li> <li>• The study may require collection of information from employers</li> </ul>	<ul style="list-style-type: none"> <li>• MA Sec. 10107 (adds PHSA Sec. 1562)</li> <li>• Report due within 1 year of DOE</li> </ul>	

	<b>Senate Bill (H.R. 3590) as passed by Senate on Dec. 31, 2009</b>	<b>Reconciliation Bill (H.R. 4872) as passed by Senate on March 25, 2010</b>
<b>Other Key Provisions</b>		
<ul style="list-style-type: none"> <li>• Medical liability reform <ul style="list-style-type: none"> <li>○ States will be eligible for grants to test alternatives to civil tort litigation that emphasize patient safety, disclosure of health care errors, and early resolution of disputes</li> <li>○ Patients will be able to opt-out of these alternatives at any time</li> </ul> </li> <li>• Alternatives will be evaluated to determine their effectiveness</li> </ul>	<ul style="list-style-type: none"> <li>• MA Sec. 10607</li> <li>• \$5 million of appropriations are authorized beginning Oct. 1, 2010</li> </ul>	
<ul style="list-style-type: none"> <li>• Several provisions use COBRA rates as a proxy for “value of employer coverage”</li> <li>• Requires HHS to develop a methodology to measure health plan value</li> </ul>	<ul style="list-style-type: none"> <li>• E.g., Sec. 9001 (excise tax); 9002 (W-2 reporting); MA Sec. 10329</li> <li>• Due within 18 months of DOE</li> </ul>	
<ul style="list-style-type: none"> <li>• Includes several provisions to develop a national quality improvement strategy including developing quality measures involving input from multiple stakeholders, reporting on quality measures under federal health programs, and implementing value-based purchasing in Medicare, and encouraging the development of new patient care models</li> </ul>	<ul style="list-style-type: none"> <li>• Title III, Subtitle A</li> </ul>	