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Every great relationship
starts with a conversation

Healthcare Reform:
What the New Legislation Means for Employers

Steve Love, RHU, GBDS

Senior Consultant

Blue Water Benefits & Administrators

(www.bwbenefits.com)

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What We'll Cover Today

We'll discuss what employers need to do (and when) to comply with two recently enacted federal laws:

The Patient Protection and Affordable Care Act (PPACA), signed into law March 23, 2010

The Health Care and Education Affordability Reconciliation Act, signed into law March 30, 2010

Many slides that follow will show effective dates for various provisions. These effective dates assume that the plan is a single-employer plan. The applicable effective dates may be different than shown for health plans that are subject to collective bargaining agreements. Consult your legal counsel if you have questions about the effective dates that may apply to your specific plans.

What We'll Cover Today

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I. Health plan amendments and design changes

   A. Changes that apply to ALL PLANS (both those already in existence on March 23, 2010, and those that may be created after that date)

   B. Changes that apply ONLY TO NEW PLANS created after March 23, 2010

II. Health plan reports, filings, and communications

III. Health plan credits, subsidies, penalties, and taxes

IV. Preparing for Healthcare Reform

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Healthcare Reform

Grandfathered Plans – What Does It Mean?

- Plans in existence on or before March 23, 2010
- Exempt or “Grandfathered” from certain provisions

Confusion!?!?

- It is unclear what changes, if any, can be made to current plan and still maintain “Grandfathered” status
- Appears that adding new hires and family members for new and current employees without losing status
- What changes are allowed and still be Grandfathered?
  - Simple copay or plan changes?
  - Carrier changes?
  - Fully to Self Insured?

Health Plan Amendments and Design Changes – ALL PLANS

1. The End of Preexisting Condition Exclusions

For plan years beginning on or after **Sept. 23, 2010**

- Health plan will be prohibited from imposing pre-existing condition exclusions against any child **under the age of 19.**
- For plan years beginning on or after **Jan. 1, 2014,** this prohibition will apply to all health plan participants of **any age**.

Further, no plan may set eligibility rules based on health status, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability, or disability. (However, employers may continue offering their workers wellness incentives based on health factors.)

Health Plan Amendments and Design Changes – ALL PLANS

2. Extended Coverage for Older (Dependent) Children

For plan years beginning on or after **Sept. 23, 2010**

- Health plan must extend coverage to any participant's children who are younger than **26 years old**
  - Married or Unmarried
  - Full-time student or not
- For **Grandfathered plans**, coverage is extended to age 26 for those **who have no other employer-sponsored coverage.**
  - In 2014, Dependent coverage will be extended regardless of access to other coverage

Health Plan Amendments and Design Changes – ALL PLANS

3. The End of Lifetime Coverage Limits

For plan years beginning on or after **Sept. 23, 2010**

- Health plan may not impose a lifetime dollar limit on "essential health benefits" as defined by federal regulators.

(These regulations have yet to be written)

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Health Plan Amendments and Design Changes – ALL PLANS

4. Restrictions on Annual Limits

For plan years beginning on or after **Sept. 23, 2010**

- The Health plan can have no annual limits for “essential health benefits.” There will be limited exceptions for “non-essential” benefits. (Regulations have not been issued)

For plan years beginning on or after **Jan. 1, 2014, your plan may not impose any annual limits at all (essential or non-essential).**

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Health Plan Amendments and Design Changes – ALL PLANS

5. The End of Coverage Rescissions

For plan years beginning on or after **Sept. 23, 2010**

- Plan may not rescind coverage for any person once he or she has become a covered participant in the plan.

The only exceptions are if the covered individual committed fraud or intentionally misrepresented material facts in order to join your plan or obtain a benefit under it.

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Health Plan Amendments and Design Changes – ALL PLANS

6. No FSA / HSA / HRA Reimbursements for Over-the-Counter Medications

Starting **Jan. 1, 2011**

- Over-the-Counter medications (other than insulin) may not be reimbursed via a flexible spending account (FSA), a health savings account (HSA), or a health reimbursement account (HRA) unless participant has doctor's prescription.

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Health Plan Amendments and Design Changes – ALL PLANS

7. Limits on Flexible Spending Accounts (FSAs) & HSA Penalty Increase

Beginning on or after **Jan. 1, 2013**

- Annual contributions made to health FSAs will be **limited to $2,500** (indexed for inflation).

Beginning in **2011**

- Penalty for withdrawals from Health Savings Accounts (HSAs) for Non-Medical expenses increases from **10% to 20%**

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Health Plan Amendments and Design Changes – ALL PLANS

8. Limits on Waiting Periods

For plan years beginning on or after **January 1, 2014**

- Plan may not impose a waiting period longer than 90 days after the participant's date of hire.

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Health Plan Amendments and Design Changes – ALL PLANS

9. Automatic Enrollment of New Full-Time Employees

- Employers with at least **200 full-time employees** must put procedures in place for automatic enrollment of their new full-time workers in a group health plan (at the coverage level with the lowest premium for employees), unless **an employee requests to opt out** or picks a different coverage level.
- **Effective date is unclear** (as soon as final regulations are issued or 2014?)

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Health Plan Amendments and Design Changes – NEW PLANS ONLY

1. No Eligibility Limits Based on Compensation

For plan years beginning on or after **Sept. 23, 2010**

- Group health plans may not limit eligibility for coverage (or continued coverage) on the basis of any full-time employee's total hourly wages or annual salary.
- **Any eligibility rules slanted in favor of higher-paid workers will be prohibited**

[IRC Section 105(h)]**.**

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Health Plan Amendments and Design Changes – NEW PLANS ONLY

2. **New Coverage Mandates including:**

For plan years beginning on or after **Sept. 23, 2010**

1. **Prohibition Against "Cost Sharing" Requirements for Preventive Care (copayments, coinsurance, deductibles)**
2. **Emergency Care covered the same In or Out of Network**
3. **Members can designate any In Network doctor as PCP (Including OB/GYN)**
   No referral for Ob/Gyn visits
4. **Internal and External appeal process rules**

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Health Plan Amendments and Design Changes – Addendum

A New Long-Term Care Program

Effective **Jan. 1, 2011**

- Health & Human Services is expected to offer a public, voluntary insurance program for long-term care [CLASS].
- You must allow your workers who wish to participate in the program to make their contributions via payroll deductions. Employees may opt-out.

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Health Plan Reports, Filings, and Communications

1. Disclosing Health Coverage Costs on Employees’ W-2 Forms

For plan years beginning on or after **Jan. 1, 2011**

- Employers must disclose the aggregate cost of your employer-sponsored health coverage on each covered worker's W-2 form.
- Will apply to 2011 coverage year and be disclosed on Form W-2 in 2012
- Children can be covered tax-free through the end of the year in which turns 26

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Health Plan Reports, Filings, and Communications

2. Uniform Coverage Explanations & Annual Reporting

Starting **March 23, 2013**

- New and existing plans must offer applicants and participants uniform explanations of their coverage - using standard definitions of common insurance and medical terms.
  - Provided at time of hire and at annual enrollment.
  - May not exceed four pages (in 12-point font)
  - Must use common benefits scenarios, and they must offer a contact if participants have questions (among other requirements).
- In 2014, Employers with more than 100 full-time employees must file annual reports with the U.S. Dept. of Health & Human Services disclosing whether they offer a health plan that covers essential health benefits.

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Health Plan Reports, Filings, and Communications

3. Health Insurance Exchanges

In 2014

- Employers must provide notices to their employees informing them of the availability of the Exchanges
- How to contact the Exchanges
- Notify employees that they may be eligible for a premium subsidy (if the employer plan covers less than 60 percent of the cost of benefits).

Health Plan Credits, Subsidies, Penalties, and Taxes

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1. Early Retiree Reinsurance Program

No later than **June 21, 2010,**

- **Reimburses** employers for up to **80 percent** of the cost of providing health insurance to retirees between the ages of **55 and 64** (along with their spouses and dependents).
- Fund will reimburse claims exceeding **$15,000 but lower than $90,000** (indexed for inflation).
- Funds are to be used to lower retiree costs
- Plans must include chronic care management programs

Program will expire on Jan. 1, 2014, or when the $5 billion fund runs out (whichever occurs earlier).

Health Plan Credits, Subsidies, Penalties, and Taxes

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2. Medicare Part D Impact

In 2010

- One time rebate of $250 for beneficiaries who reach 'donut hole' in 2010
  - In 2011 – discounts on Brand & Generic drugs in 'donut hole' for those in a Prescription Drug Plan
  - Plans to close donut hole by 2020

In 2011

- Part D premium to be indexed based on income like Part B premium is today

Jan. 1, 2013

- Employers that receive federal **Medicare Part D Retiree Drug Subsidy** for Retirees
  - **Subsidy will be taxable**
  - Applies to employers with tax liability

Health Plan Credits, Subsidies, Penalties, and Taxes

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3. Medicare Advantage Plans

For 2011

- Reimbursements for MA plans will be frozen at the 2010 levels

Future Reimbursements

- Reimbursements for MA plans will decrease

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4. Tax Changes

Effective Jan. 1, 2013

- **Increase in the Medicare Part A Hospital Insurance Tax**
  - Employers must collect an additional Medicare hospital insurance tax equal to **0.9% of wages exceeding $200,000 for single filers or $250,000 for joint filers**.
  - Employee-paid share of FICA on these "excess wages" will increase from the current level of 1.45 percent to 2.35 percent.

First Plan year on or after Sept. 30, 2012

- **Comparative Effectiveness Research Fee**
  - Used to fund Patient Centered Outcome Research
  - $2.00 per covered life
  - Sunsets in 2019

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5. Health Insurance Exchanges Established

Beginning in 2014

- Requires each state to create an Exchange to facilitate sale of qualified benefit plans to individuals & small groups (May allow for large groups by 2017)
- Levels of coverage offered:
  - Bronze
  - Silver
  - Gold
  - Platinum
  - “Young Invincible” Catastrophic plan for those 30 and younger

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6. Penalties for Employers that are “Free-Riders”

Employers **are not** required to provide group health coverage. However, **starting with plan years beginning on or after Jan. 1, 2014**

- Employers will be subject to a "free-rider penalty" if:

— they have **at least 50 full-time** employees (subtract first 30 workers)

— at least one of the full-time worker obtains federally subsidized coverage via an Exchange

- If Employer **does not** offer coverage – Penalty is **$2,000** times the **total # of FTEs**
- If Employer **does** offer coverage* – Penalty is **$3,000** times **# of FTEs receiving tax credit** via Exchange (*Qualified & Affordable)
- If family income is >$88,000, employee may pay full cost of coverage

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Health Plan Credits, Subsidies, Penalties, and Taxes

7. Free Choice Vouchers

Starting **Jan. 1, 2014**

- Employers must provide **"free choice vouchers"** (if you offer a group health plan) for buying coverage through an Exchange to any employee:
  - If household income is **less than 400 percent of the Federal Poverty Level**
  - Whose required contribution to your plan is between **8% - 9.8%** of his/her **household income**
  - AND does not enroll in Employer plan
- Equivalent to amount employer would have provided toward employees selection (single/family)
- Paid to Exchange; If Exchange costs less, employee keeps the difference

Health Plan Credits, Subsidies, Penalties, and Taxes

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8. New Excise Tax on High-Cost ("Cadillac") Health Plans

Starting **with taxable years beginning on or after Jan. 2, 2018**

- A new 40% excise tax will be imposed on certain high-cost health plans.
- The tax applies if aggregate coverage costs exceed an annual limit:

$10,200/indiv. or $27,500/family

- Higher limits apply in certain situations.
- Includes FSA/HRA/HSAs but excludes Dental and Vision

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Potential Cost Impact of Health Reform

Potential Cost Reduction Aspects:

- Decrease in uninsured may reduce cost shift to Employer based plans
- Exchanges designed to reduce costs by increasing competition, streamline admin.
- Comparative Effectiveness designed to find 'best', cost effective treatment
- Short term help with Early Retiree subsidy

Potential Cost Increase Aspects

- Comparative Effectiveness Research - $2.00 per member
- Coverage Mandates (dependents, no pre-ex, no maximums, etc.)
- Taxes levied on medical devices and insurers will be passed on to plan sponsors
- Potential leveraging by providers, shifting cost to compensate for lower Medicare reimbursements

Preparing for Healthcare Reform

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Cost Containment Strategies Are Still Important!

- Value Based Benefit Plan Designs will remain effective ways to reduce cost
- Wellness Programs that tie incentives back to health plan
- Manage & optimize vendor relationships (network discounts, PBM, etc.)
- Audit your plans
  - Claims Audits
  - Eligibility & Dependent Verification Audits
- Disease and Health Management
  - On Site Clinics
- Stop Loss Coverage Analysis
  - Update or add for new potential liability

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Preparing for Healthcare Reform

Show Me The Money! The Early Retiree Reinsurance Program

- Be prepared to apply quickly – June 2010
- Application process similar to Medicare Part D subsidy – electronic
- Be prepared to meet the definition of Chronic Care Management program
- Must use to lower retiree costs. Possible methods:
    - Lower premium, coinsurance, out-of-pocket costs, etc.
    - Wellness Incentives
    - Premium holiday
- Temporary program until 2014 at the latest
    - Some estimates indicate lasting 1-2 years

Preparing for Healthcare Reform

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Analyze and Adjust Current Plans

- Make sure to meet all minimum requirements; stay in compliance
- Update Plan documents and communications as needed
- Assess Medicare, Medicare Advantage and Medicare Part D strategy & impact
- Assess funding arrangement for long term implications
- Stay focused on potential impact of exchanges, vouchers, subsidies vs. health plan offerings

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Preparing for Healthcare Reform

Be proactive with employee communications

- Everyone has questions – especially your employees!
- Prepare now to communicate early and often with employees about change
- For retiree plan communication, be sure to include current retirees and those approaching retirement
- Keep it simple and change it up
  - Payroll Stuffers
  - Memos
  - Try "Town Hall meetings" with workers
  - Packets sent to employees' homes (so that spouses and family members are in the loop)
- Don't Remain Silent!

— Even if you don't have all of the answers, it's best to keep employees in the loop

- "We're working with our benefit advisers, attorneys, etc – we'll have answers ASAP"

Thank you for your time!
For Additional Questions:

Steve Love, RHU, GBDS
Blue Water Benefits & Administrators

slove@bwbenefits.com
www.bwbenefits.com www.bwadministrators.com