VORYS
Legal Counsel

Client Alert

Health Care Reform Timeline

For more information regarding health care reform, please contact your Vorys attorney or a member of the Vorys Health Care Reform team:

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President Obama signed the Patient Protection and Affordable Care Act of 2010 ("PPACA") on Tuesday March 23 and the Senate is now debating the reconciliation bill – the Health Care and Education Affordability Reconciliation Act of 2010 ("Reconciliation Bill") – that was passed by the House on March 21. We cannot yet predict the full impact of this historic legislation or the final terms of the Reconciliation Bill.

We can state for certain that fundamental changes will be required for all plans, the process is fluid and there are many in Congress who look to make further amendments to this law. Several lawmakers have commented that they are voting for this bill as a first step but that they hope to make further changes before some of the provisions take effect. We will post articles on issues and options related to health care reform at http://www.vorys.com/f-55.html. If you are interested, go to http://www.vorys.com/f-55.html and subscribe to the RSS feed to automatically receive article updates in your RSS reader. We will also host a series of teleconferences on health care reform. Look for your invitation to the first conference, scheduled for April 13.

The following portions of the PPACA are unchanged in the Reconciliation Bill and have become law:

Within 90 days of enactment:

- The Secretary of Health and Human Services ("HHS") must establish a process to provide insurance (until 2014) for uninsured individuals who have pre-existing conditions.
- HHS must establish a process to provide reinsurance (until 2014) for certain early-retiree coverage that bridges from age 55 to Medicare eligibility.

Beginning with plan years starting after September 23, 2010 (January 1, 2011 for calendar year plans):

- Plans must provide full, first dollar coverage of preventative health services.
- Plans must cover adult children until their 26th birthday, regardless of whether they are in school or qualify as a tax dependent. (Note that this may be further expanded because the Reconciliation Bill also removes a requirement that the adult child not be married.)
- Plans (including self-insured plans) must allow an external appeals process that allows a participant to present evidence and testimony as part of the appeal and to receive continued coverage pending the outcome of the appeals process.
- Insured plans become subject to the rules prohibiting discrimination in favor of highly paid employees.
- Employers must report the value of health insurance on an employee's Form W-2.
- Plans (including self-insured plans) and insurers in the group and individual insurance markets will be prohibited from imposing pre-existing conditions limitations on children under age 19.
- Plans may only establish annual or lifetime limits on benefits to the extent permitted by HHS.

Within one year of enactment:

- HHS must issue a uniform explanation of coverage that must then be used by all plans (including self-insured and grandfathered plans).
- Plans (including self-insured and grandfathered plans) will be required to provide HHS with financial information about incurred losses or claims, loss adjustments or reserves and accrued premiums.

Within two years of enactment, HHS must make available reports regarding the effectiveness of various cost containment measures.

For plan years beginning in 2014:

- Plans will be prohibited from establishing lifetime or annual limits on essential health benefits (as determined by HHS). A plan may still establish annual or lifetime limits on benefits that are not essential health benefits.

- Plans and insurers in the group and individual insurance markets will be prohibited from imposing pre-existing conditions limitations or waiting periods longer than 90 days.
- Insurers for the individual and small group markets, and any insurer who issues a policy in the state-established insurance exchange, may only vary premiums based on the plan design, whether the coverage is for individual or family coverage, age (premium can only increase by 3 times), tobacco use (premium can only increase by 1½ times), and the geographic area established by each state.
- Insurers must issue a policy, at rates described above, to any group or individual who applies for coverage.
- Employers with at least 200 employees will be required to automatically enroll employees in health insurance coverage unless they opt out. It appears that employers with more than one coverage option will be able to select the default coverage option.

Existing plans are "grandfathered" from compliance with these provisions for employees who are currently enrolled, their family members and new employees. Under the Reconciliation Bill, grandfathered plans are required to comply with the prohibition on waiting periods longer than 90 days, lifetime and annual limits, pre-existing condition limitations and rescission of insurance and must cover adult dependent children.

How it is paid for:

- Starting in 2013, under the Reconciliation Bill, an increased Medicare payroll tax on taxpayers earning $200,000+ ($250,000+ for joint filers).
- Starting in 2013, an excise tax on high-dollar health insurance plans (delayed until 2018 under the Reconciliation Bill).
- New fees on certain health-related industries.
- Beginning in 2014, individuals will be required to purchase health insurance or pay a penalty equal to the greater of a flat dollar amount or a percentage of modified adjusted gross income (over a threshold under the Reconciliation Bill).

Year	$ penalty under PPACA	$ penalty under Reconciliation Bill	% of income penalty under PPACA	% of income penalty under Reconciliation Bill
2014	$95	$95	0.5%	1.0%
2015	$495	$325	1.0%	2.0%
2016+	$750*	$695*	2.0%	2.5%

** Indexed for inflation after 2016.*

- If an employer with 50 or more employees does not offer "minimum essential coverage," or if one of its employees purchases subsidized coverage through the insurance exchange, the employer will be required to pay a penalty. Under PPACA, the employer penalty is $750 per full time employee (employees who average 30 hours per week). Under the Reconciliation Bill, the employer penalty is $2,000 per full time equivalent employee with an exemption for the first 30 employees (full time employees plus all hours worked by part-time employees divided by 120 hours).
- Under PPACA (but eliminated under the Reconciliation Bill), employers who have a waiting period of more than 60 days are required to pay an additional penalty of $600 per affected employee.
