U.S. CHAMBER OF COMMERCE

HEALTH CARE

Health Care Implementation Timeline

Senate Bill (Signed into law 3/23/10) – Additional changes made in reconciliation

The healthcare bill passed by the Senate and House will go into effect over a number of years. In 2010, 2011, 2012 and 2013, most of the bill's provisions involve new taxes and obligations. For the most part, the healthcare system changes begin in 2014, with some aspects of implementation farther in the future. Below is a timeline of some of the major provisions of this bill. Please keep in mind this is meant to be informative and to help employers to understand how their plans will change, but should not be considered legal guidance. Of course, government agencies, principally the Department of Health and Human Services, will be issuing multiple regulations and countless interpretive bulletins elaborating on the meaning of these provisions.

2010

- **Insurance Reforms:** After the signing of the Health Care and Education Affordability Reconciliation Act of 2010, all existing health insurance plans will be subject to new regulations that prohibit lifetime limits, rescissions, and excessive waiting periods. Compliance must be met within six months. Additionally, a requirement to provide coverage for non-dependent children requires them to be able to stay on their parent's policies until age 26. Prior to 2014, the requirement is limited to those adult children without an offer of employer-sponsored coverage. Also restricts annual limits for group health plans and requires all plans (individual and group) to provide first dollar coverage for preventive services.
- **Small Business Health Tax Credit:** This will do little to help small firms afford insurance. The credit, worth 50% of an employer's contribution toward employees' health insurance premiums, is very restrictive and puts small business owners through a series of complicated tests to determine the actual amount of the credit. (1) Very few small firms will receive the full credit (only firms with 10 employees or less). For firms with 11-25 employees, the credit is reduced per employee. Firms with more than 25 employees get NO credit. (2) Only firms who pay their workers $25,000 or less are eligible for the full credit. The credit is reduced as the average wage goes up, stopping at $50,000. The credit is only available for a maximum of five years, and only two years once the Exchanges are up and running in 2014.
- **False Claims Act:** Narrows the application of the False Claims Act's public disclosure bar.
- **Early Retirees:** Creates a temporary reinsurance program to help companies that provide early retiree benefits for those 55-64. This fund will reimburse qualifying employers for 80% of the costs of early retirees' claims between $15,000 and $90,000, but the program is only funded with $5 billion.
- **Taxation**: A 10% tax on indoor tanning services will be imposed on 7/1/10. Further, the exclusion of the paper manufacturers' "black liquor" tax credit also goes into effect.

- **Medicare Cuts:** After October 1, physicians' Medicare reimbursement will be cut by more than 20 percent unless Congress enacts the so-called "doc-fix" to preserve or increase their payment levels.

2011

- **W-2 Reporting:** Employers will be required to report the value of employees' health benefits on W-2s.
- **HSA & FSA Limits:** Consumers can no longer use HSAs and FSAs to purchase certain items, including most over-the-counter medication unless prescribed by physicians.
- **Brand-name Drug Tax:** An annual fee will be imposed on manufacturers and importers of brand-name drugs. The amount is set at $2.5 billion for 2011, $2.8 billion per year for 2012 and 2013, $3 billion per year for 2014 through 2016, $4 billion for 2017, $4.1 billion for 2018, and $2.8 billion for 2019 and thereafter. This cost will be passed on to consumers.
- **HSA Penalty:** The penalty for making non-qualified purchases with an HSA increases to 20%.
- **Federally Subsidized Long-term Care:** Voluntary payroll deductions begin for the CLASS long-term care program. Working adults may be automatically enrolled unless they choose to opt out. According to the Congressional Budget Office, this program will almost certainly cost the federal government far more than what the payroll deductions will cover. It appears this entitlement is yet another unfunded liability to add to the federal deficit for decades to come.
- **Physician Ownership Referral:** Physicians are prohibited from self-referring to hospitals in which they have an ownership interest. There are limited exceptions, including an exception to the growth restrictions for grandfathered physician owned hospitals that treat the highest percentage of Medicaid patients in their county (and are not the sole hospital in the county).
- **Market Basket and Productivity Adjustments:** With varying effective dates, reduces annual market basket for inpatient hospital, home health, skilled nursing facility, hospice and other Medicare providers. Also includes productivity adjustments.

2012

- **1099 Reporting:** Businesses will have to complete 1099 forms for every business-to-business transaction of $600 or more – a tremendous new paperwork burden for small business.
- **Medicare Advantage (MA):** MA payments are frozen for 2011. Beginning in 2012, a new system of blended benchmarks will be phased in.

2013

- **Elimination of Deduction for Part D Subsidy:** The existing employer tax deduction for the Part D subsidy is eliminated.
- **Fewer Deductible Medical Expenses:** New limits are placed on the deductibility of medical expenses on individual income tax returns. This provision raises the 7.5% AGI floor on medical expenses deductions to 10%. The AGI floor for those 65 and older (and their spouses) remains at 7.5% through 2016.
- **Medicare Payroll Taxes:** The Medicare payroll tax on wages and self-employment income in excess of $200,000 ($250,000 joint) will increase by 0.9%, and also applies for the first time, to net investment income. Earners in excess of $200.000 ($250,000 joint) will pay an additional 3.8% Medicare tax on investment income. The income thresholds are not indexed to inflation. This tax marks the first time

that funds designated for Medicare will be diverted elsewhere – specifically to pay for the insurance policies of people under the Medicare age. This establishes a precedent for treating the payroll tax as a revenue raiser for other purposes.

- **FSA Limits:** Cafeteria plan FSA contributions will be limited to $2,500 (inflation adjusted after 2013.)
- **Medical Device Tax:** A 2.3% excise tax on manufacturers and importers of certain medical devices will begin. These costs will ultimately be borne by the consumer.
- **Comparative Effectiveness Tax:** A fee will be placed on insurance policies to fund comparative effectiveness research.

2014

- **Health Insurance Exchanges:** Up until 2014, the bill collects a great deal of taxes, but most of the insurance market reforms are not implemented. In 2014, that begins to change with the opening of insurance exchanges. States must establish an American Health Benefit Exchange that will facilitate the purchase of "qualified health plans" and includes a SHOP exchange for small businesses. Individuals can enroll in a plan through the state exchange and small employers can offer a choice of plans to their employees through the exchange.
- **Benefits Package:** Federal government defines essential benefits package. All qualified health plans must offer the essential health benefits package.
- **Individual Mandate:** Starting in 2014, all U.S. citizens and legal residents must have qualifying health coverage or pay penalties. Other than individuals who meet a hardship exemption, individuals will be required to carry eligible health coverage. The fully phased-in penalty for not having health insurance is the greater of $695 or 2.5 percent of income.
- **Employer Mandate:** The bill contains a complex employer mandate requiring some firms to provide insurance, pay penalties or both. Insurance must meet a 60% actuarial value test to qualify. The penalties are based on (1) the number of full-time employees, (2) whether or not the firm offers coverage, and (3) whether or not one or more employees qualify for government subsidies toward the purchase of health insurance. An employee qualifies for a subsidy if his or her household income is below 400% of the federal poverty line ($88,000 for a family of four). Here are some of the rules:
    - More than 50 full-time employees. Does not offer insurance. Has one or more employees receiving premium subsidies. The first 30 workers would be subtracted from the calculation. Penalty = $2,000 per employee.
    - More than 50 full-time employees. Offers qualified health insurance. Has employee(s) receiving premium subsidies. Penalty = lesser of $3,000 per subsidized employee or $2,000 per employee.
    - More than 50 full-time employees. Offers qualified insurance. Has no employees receiving premium subsidies. No penalty.
    - 50 or fewer full-time employees. No penalty.
- **Premium Credits:** The federal government begins subsidizing individuals up to 400% of the federal poverty line. These credits will subsidize individuals purchasing insurance in exchanges, but generally speaking, will not be available to those with traditional employer-sponsored plans. Subsidies will be paid directly to insurers, not individuals.
- **Medicaid Eligibility Expands:** The income level for Medicaid eligibility rises, bringing tens of millions of new people into Medicaid. This expansion of Medicaid will account for around half of the total increase

in insurance coverage and will place considerable new financial pressure on states, with higher state taxes a likely response.

- **Reforms to Group Health Plans:** Prohibits annual limits on group health plans. They were restricted since implementation. Also prohibits pre-existing condition exclusions for group plans.
- **Annual Fee on Health Insurance Providers:** Fees are $8 Billion in 2014; $11.3 billion in 2015 and 2016; $13.9 billion in 2017; $14.3 billion in 2018 and indexed to medical cost growth thereafter.

2015

- **IPAB**: Establishes an Independent Payment Advisory Board (IPAB) charged with recommending reductions in Medicare spending. Congress must either adopt the IPAB's proposed cuts or pass an alternative with equivalent savings. The IPAB will first propose cuts in 2014 for implementation in 2015.

2016

- **Interstate Health Choice Compacts:** Under these compacts, qualified health plans could be offered in all participating states, but insurers would still be subject to the consumer protection laws of the purchaser's state.

2017

- **Large Employers in Exchange:** At this point, states may choose to permit large employers to offer coverage to their employees through the exchanges.

2018

- **Cadillac Tax:** The government will collect a so-called "Cadillac Tax" – a 40% excise tax on health coverage in excess of $10,200 annually for an individual or $27,500 annually per family, with increased thresholds of $11,850 individual and $30,950 family for certain high-risk professions and retirees over the age of 55. This tax is inadequately indexed for medical inflation, so as healthcare costs rise, more and more people will be swept into this tax each year. This is similar to the alternative minimum tax – designed to hit the "rich" but reaching farther and farther into the middle class each year. For the first two years it is indexed to CPI+1%, but to CPI only in 2020 and beyond.

2019/2020

- **Indexing of Premium Subsidies:** To slow the growth of premium subsidies, beginning in 2019, the indexing of these subsidies is adjusted if premiums are growing faster than CPI.
- **Indexing of the "Cadillac Tax Thresholds:** Beginning in 2020, the thresholds for the high premium tax will be indexed to the general rate of inflation.