In Simple *Words*

Health Care, No Longer Reform But Law

AVOID DISCUSSING POLITICS AND RELIGION

by Steven G. Cosby, MHSA

This is standard advice that most wise mentors will give any protégé. However, this long standing cliché could be revised to include health care. Nothing can be more divisive in mixed company than a robust discussion on health care. Yet during the past year, few of us could resist a discussion with our family, friends, and colleagues on the subject. Our country debated vigorously back and forth about the health care proposals before Congress. And now, after prolonged controversy, these landmark legislations have been turned into law.

First, the Patient Protection and Affordable Care Act (PPACA), HR 3590 was signed into law by President Obama on March 23, 2010. Second, the Health Care and Education Tax Credit Reconciliation Act of 2010, HR 4872 was signed by the President on March 30, 2010. Looking past the more than 2500 pages and trillion dollars in spending, what do these new laws mean to most of us as we live our daily lives and navigate our own health? How will our lives be affected? Should you be concerned?

Most policy experts agree that the new law is light on cost containment. Little has been accomplished to actually abate the skyrocketing cost of health care. Therefore, it is unlikely that we will see the proclaimed "death-panels" limiting our care or making it more difficult to receive care. You and your physician remain largely in charge of your medical decisions. In fact, the law specifically allows you to select your in-network primary care physician. Meanwhile, many of the undesirable standard practices of insurance companies have been addressed: Insurance companies will no longer be able to terminate your health plan when you get sick; they can no longer discriminate against children with previously existing medical conditions; and they can no longer make unilateral decisions about their rate increases. Insurance companies that deny claims will have to establish an appeals process and the patient will have access to their claim file. Finally, your dependant age children will be able to remain on your employer's health plan until they are 26 years old.

The most significant accomplishment of the new law is the establishment of National Health Care Plan, a.k.a. "The Exchange." It is estimated that 32 million people will have insurance that never had it before. Some of these newly insured will be the result of generous government subsidies and others will be mandated by the government. But those already with coverage will be affected, too. One of the better things about this new law is that many of its provisions are gradual, giving us some time to adjust. Some provisions are stretched out over the next 8 years. For a timeline summary of the law please refer to the adjacent exhibit.

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Make no mistake, this new law will affect you and your family in the way that you pay for your health care. On the upside, new benefits like free preventative care will now be mandated and health plans will no longer have annual benefit limits or lifetime maximums. Seniors will find their Medicare "donut hole" closing and therefore reducing the amount they pay for prescriptions. Many small businesses will be offered tax credits

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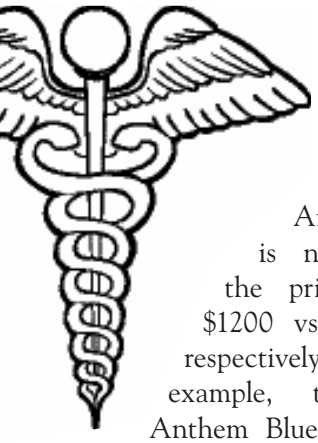
to help make coverage more affordable for their employees. And people who are older, or sicker, will likely find their premiums reduced because the law restricts how much their premiums can vary from the young and healthy. On the downside, those who have avoided paying health insurance premiums will now be mandated to purchase health insurance or pay a penalty tax.

The previously mentioned "free" benefits will not be so free—reduced premiums for the old and sick will be financed by higher premiums for the young and healthy. This premium shifting is sometimes referred to as price fairness or guarantee issue. A recent article on April 9, 2010 on CCN Money. Com illustrates one story of a healthy individual seeking an affordable health plan. In New York City where they have fair pricing regulations and in Arizona where there is no such regulation the price difference was $1200 vs. $300 per month respectively. In another example, the president of Anthem Blue Cross Blue Shield Southwest, Burke King , presented that a healthy 40-year-old female living in Virginia would pay a premium of $100 per month, but in Maine, where guarantee issue regulations are the law, she would pay $365 for a similar health plan.



There are several new minor taxes imbedded in health plans that insurance companies will predictably pass onto you. Medical expenses currently eligible for reimbursement, such as over-the-counter medicines and medical devices, will be ineligible expenses. One example: as early as 2011, Flexible Spending Accounts will no longer be able to reimburse for over-the-counter drugs without a prescription. For those who have already committed funds for their 2010-2011 plan year, or who will soon, this is an important point to consider. And yes, there will be that infamous "Cadillac tax" for those individuals with very expensive plans: 40% excise tax on plans with premiums greater than $10,200 for individual coverage and $27,500 for family coverage.

Finally, much criticism came during the health care debate regarding the length of the health care bill and how so few had actually read it. There are some interesting, but not well publicized, features of the new law that may affect you. One is a provision known as the Class Act, which will establish a national long-term care plan in 2011. The provision requires that all working adults be automatically enrolled in the plan unless they voluntarily elect to opt-out. Another provision is the new power given to the Office of Personnel (OPM) over the insurance exchange and how it negotiates with insurance companies, potentially giving it, and its boss, the President of the United States, authority over approximately 17% of our economy. Something to think about. Finally, regarding the mandate to have health insurance there is "Subpart B- Eligibility Determinations 5(A) Religious Conscience Exemption": People of a qualifying religious sect may opt out of the mandate.

IF YOU HAVE A BUSINESS, KNOW THAT ALL YOUR EMPLOYEES ARE INDIVIDUALLY MANDATED TO HAVE COVERAGE BY 2014.

If you have a business, know that all your employees are individually mandated to have coverage by 2014. Offering an employer-sponsored health insurance plan will likely satisfy this federal mandate and help them avoid any fines or penalties. If you offer health insurance but one of your employees receives premium-assistance tax credit to buy coverage through the exchange, your company can be penalized up to $2000 per employee on all your employees. As an employer, you may not be specifically mandated to insure your employees, but both you and your employee may pay a penalty if you do not have the minimal health insurance.

There are several new federal compliance issues for employers. For example, beginning in 2012 employers will have to include on employee's W-2 the value of the health insurance coverage sponsored by the employer. If you are a small employer with less than 50 employees you will likely avoid most penalties and you may be eligible for subsidies or grants to encourage you to

Politics and religion again! I can't seem to avoid these topics even in discussions of health care. I guess there is no safe haven.

See Page 52 for a detailed timeline of the Health Law Implementation.

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HEALTH LAW IMPLEMENTATION: SOME KEY PROVISIONS

2010

- High Risk pool program to begin funding for health insurance coverage for eligible individuals (within 90 days of enactment until January 1, 2014).
- Insurance reforms imposed: no denial of coverage to children with preexisting conditions, adult children permitted to remain on parents' policies until age 26, prohibits lifetime limits on dollar value of coverage (within 6 months). No rescission of coverage unless fraud occurs.
- States must establish and implement process for reviewing premium increases.
- For tax years 2010-2013, employer tax credit Phase I.
- Imposes 10% tax on indoor tanning services.
- Establish an office of health insurance consumer assistance or ombudsman program to advocate for people with private coverage in the individual and small group markets.
- $250 rebate to Medicare beneficiaries reaching Part D coverage gap in 2010.
- Lifetime limits on the dollar value of benefits for any participant or beneficiary for all fully insured and self-insured groups and individual plans, including grandfathered plans, are prohibited by current law within six months of enactment.
- All group and individual plans, including self-insured plans and grandfathered plans, will have to cover specific preventive care services with no cost-sharing. They also will have to cover emergency services at the in-network level regardless of provider, allow enrollees to designate any in-network doctor as their primary care physician and have a coverage appeal process.

2011

- Excludes costs for over-the-counter drugs not prescribed by a doctor from being reimbursed through an HRA or health FSA and from being reimbursed on a tax-free basis through an H.S.A. or Archer Medical Savings Account.
- Increase tax on distributions from H.S.A. or Archer MSA not used for qualified medical expenses to 20%.
- Imposes $2.5 billion fee on pharmaceutical manufacturing sector.
- Requires insurance companies to begin providing rebates related to medical loss ratios.
- Develop standards for insurers to use in providing information on benefits coverage.
- Rules adopted by July 1 for simplifying health insurance administration by adopting a single set of operating rules for eligibility verification and claims status.
- All employers would be required to enroll employees in a new national public long-term care program, unless the employee opted out.

2012

- All group plans and group and individual health insurers (including self-insured plans) will have to provide a summary of benefits and a coverage explanation that meets specified criteria. There is a $1,000-per-enrollee fine for willful failure to provide the information.

2013

- Increases Medicare Part A tax rate on wages by 0.9% on earnings over $200,000 for individuals and $250,000 for married couples filing jointly. Imposes a 3.8% tax on unearned income for higher-income taxpayers.
- Imposes excise tax of 2.9% on the sale of any taxable medical device.
- Regulations issued by July 1 permitting states to form health care choice compacts and allow insurers to sell policies in any state participating in the compact.
- Create the Consumer Operated and Oriented Plan (CO-OP) program to foster the creation of non-profit, member-run health insurance companies in all 50 states and the District of Columbia to offer qualified health plans.
- Establish a national Medicare pilot program to develop and evaluate paying a bundled payment for acute, inpatient hospital services, physician services, outpatient hospital services, and post-acute care services for an episode of care.
- F.S.A. contributions for medical expenses will be limited to $2500 per year, with the cap annually indexed for inflation.

2014

- All U.S. citizens and legal residents required to have coverage.
- Penalty phased in: $95 per year in 2014, phasing in to $695 per year by 2016, or 2.5% of taxable income. Exempts low-income individuals.
- Penalty of $2,000 per employee per year for employers with 50+ full-time employees who do not offer coverage.
- Requirement to offer employees "vouchers" to obtain coverage through the Exchange.
- Premium and cost sharing subsidies to individuals.
- Employer mandate begins. Companies with 200+ employees must auto-enroll all employees.
- For tax years 2014 and beyond, employer tax credit Phase II begins.
- Imposes fee on insurers.
- State-based exchanges required to be operating.
- Creates essential health benefits package. All health plans except grandfathered individual and employer-sponsored plans, required to offer at least the essential health benefits package.
- Grandfathered group plans may only impose annual limits as determined by Health and Human Services (HHS). Must eliminate pre-existing condition exclusions for adults.
- Limit waiting periods for coverage to 90 days.
- Limit deductibles for health plans in the small group market to $2,000 for individuals and $4,000 for families unless contributions are offered that offset deductible amounts above these limits.
- Cooperative plans will be allowed to be sold. Multistate national plans will be offered to individual and small employers through the state-based exchanges.
- Premium assistance tax credits for individuals and families making up to 400% of Federal Poverty Level (FPL) begin. These subsidies are available only for individual coverage purchased through the exchange, not employer-sponsored coverage.
- Expansion of the Medicaid program for all individuals, including childless adults, making up to 133% of the FPL begins. States can also create a separate non-Medicaid plan for those with incomes between 133% and 200% of FPL that do not have access to employer-sponsored coverage.

2018

- Excise tax on "Cadillac plans" valued at more than $10,200 for individual coverage and $27,500 for family coverage.

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This document is an outline and not meant to replace qualified tax and legal advice from your qualified expert.