



Health Care Reform: Plan Design Requirements

	Plan Provision	Grandfathered Plan	Non-grandfathered Plan	Effective Date
2010-2011	Pre-existing Conditions: Not permitted for children under 19 (All pre-ex banned in 2014)	Applies	Applies	PYB** > 9/23/10
	Maximum Lifetime Benefit Limit: Not allowed	Applies	Applies	PYB > 9/23/10
	Annual Limits: Limits allowed on “essential benefits” only if specifically permitted by Secretary (All annual limits banned in 2014)	Applies	Applies	PYB > 9/23/10
	Dependent Coverage to Age 26: Required, even for married, non-dependent children	Applies unless adult child has other employer coverage. In 2014, applies in all cases	Applies	PYB > 9/23/10
	Rescission of Coverage: Must give prior notice. Plan needs provision allowing rescission for fraud or misrepresentation.	Applies	Applies	PYB > 9/23/10
	Prior Notice of Plan Changes. Plan must provide written notice of material plan changes at least 60 days prior to effective date of change.	Applies, effective as of PYB > 3/23/10	Applies, effective as of date of enactment (3/23/10)	Dependent on grandfathered status.

* A “grandfathered plan” is one that was in existence on March 23, 2010. At least one person must have been enrolled as of that date. Grandfathered status is not generally affected by new enrollments or enrollment changes after March 23, 2010, but it is limited as to the extent that it may eliminate benefits offered and increase cost sharing provisions.

** PYB – plan year beginning after date shown

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	Plan Provision	Grandfathered Plan	Non-grandfathered Plan	Effective Date
	Fully insured plans: Subject to same non-discrimination rules as self-insured plans	Does not apply	Applies	PYB > 9/23/10
	Preventive Care/Screenings: Must be provided within specified guidelines without cost-sharing	Does not apply	Applies	PYB > 9/23/10
2010-2011	Emergency Services: If otherwise covered, must be provided without prior authorization or out-of-network cost sharing	Does not apply	Applies	PYB > 9/23/10
	Access: Plan that requires PCP/gatekeeper must allow individual to designate any available PCP; must permit pediatrician as PCP; must provide direct access to OB/GYN	Does not apply	Applies	PYB > 9/23/10
	Internal/External Reviews: Plan must provide both in accordance with regulations of Secretary	Does not apply	Applies	PYB > 9/23/10 [Dependent on issuance of regulations.]
2011	FSAs: Cannot reimburse over-the-counter drug expenses unless prescribed by physician	Applies	Applies	Jan 1, 2011
	Disclosures: Plan must use standardized summary of benefits	Applies	Applies	Jan. 1, 2011 (?) [Dependent on issuance of regulations.]
	IRS Reporting: Employer must report value of each employee's health coverage on W-2	Applies	Applies	Jan. 1, 2011 (?) [Dependent on issuance of regulations.]



	Plan Provision	Grandfathered Plan	Non-grandfathered Plan	Effective Date
2012	Annual Reports: Required annual reports to Secretary and participants regarding health care quality, wellness initiatives	Does not apply	Applies	Sept. 23, 2012(?) [Dependent on issuance of regulations.]
2013	FSAs: Annual contributions limited to \$2,500	Applies	Applies	Jan. 1, 2013
	Medicare Tax: Employee portion of Medicare tax increases to 2.35% for wages over \$200,000	Applies	Applies	Jan. 1, 2013
2014	Waiting Periods: Cannot exceed 90 days	Applies	Applies	PYB \geq Jan. 1, 2014
	Clinical Trials: Cannot deny coverage that would otherwise be provided on grounds of clinical trial. Network restrictions permitted	Does not apply	Applies	PYB \geq Jan. 1, 2014
	Essential Health Benefits: Must be provided by fully-insured, small group plans. [Ambulatory care, emergency care; hospitalization; maternity/newborn; prescription drugs; rehab; lab; preventive/wellness and chronic disease management; pediatric]	Does not apply (but insurance market may require it)	Applies	PYB \geq Jan. 1, 2014
	Cost Sharing: May not exceed HDHP maximum out-of-pocket limits; deductibles may not exceed \$2,000/\$4,000 (as adjusted). HSA/HRA/FSA contributions may be taken into account as regulations permit.	Does not apply	Applies	PYB \geq Jan. 1, 2014



Health Care Reform: Summary of Pay-or-Play Provisions

Incentives/Penalties Based on Employer Size	
≤25 Ees	<p>Tax Credit: Employers with no more than 25 full-time equivalent employees and average annual wages of \$50,000 or less are eligible for a tax credit based on employer's contribution toward employee health insurance. Amount/percentage of credit is phased over time depending on size of employer, average annual wages. <i>Effective upon enactment.</i></p>
50+ Ees	<p>Mandatory Coverage: Employers with 50 or more full-time equivalent employees must provide coverage or pay penalty. Coverage must be "affordable" or other penalties apply. Details on following page. <i>Effective January 1, 2014.</i></p>
<100 Ees	<p>Simplified Cafeteria Plans: Simplified nondiscrimination rules apply if employer makes a contribution toward benefits for each eligible employee of at least (a) 2% of employee's compensation or (b) the lesser of 6% of employee's compensation or twice the amount of salary reduction contributions made by each eligible non-highly compensated or non-key employee. All benefit options must be offered on equal terms to employees with 1000 hours of service. <i>Effective January 1, 2011.</i></p>
200+ Ees	<p>Automatic Enrollment: Employers with more than 200 full-time employees must enroll eligible new employees in employer's health plan and must automatically re-enroll current participants. Employer must provide notice to employees and allow employees to opt out. <i>Effective upon issuance of regulations.</i></p>
Any Size	<p>Free Choice Vouchers: Employers (any size) that offer coverage must provide free choice vouchers. Details on following pages. <i>Effective January 1, 2014</i></p>



Health Care Reform: Mandatory Coverage Provisions

Mandatory Coverage and Penalties	
Coverage	<p>Mandatory Coverage. Employer with 50 or more full-time employees (FTEs) must offer “affordable” coverage to all “full-time” employees or pay penalties.</p> <ul style="list-style-type: none"> • For penalty purposes, there are no minimum benefit requirements (but must be “affordable” to avoid penalties) • To determine if employer has at least 50 FTEs, must count full-time and “full-time equivalent” employees on a monthly basis. $\text{TOTAL} = \text{Number of FTEs} + [\text{Service Hours of Part-time Employees} \div 120]$ • “Full-time” means an average of at least 30 hours per week • “Affordable” means: <ul style="list-style-type: none"> ○ Employee contribution amount cannot exceed 9.5% of household income; AND ○ Plan covers at least 60% of actuarial value of plan’s total allowed costs • Penalties will apply only if at least one “qualified employee” enrolls in exchange and qualifies for premium tax reduction or cost-sharing reduction. <ul style="list-style-type: none"> ○ A qualified employee’s household income must be less than 400% of the federal poverty level. ○ At 2009 levels, this generally means household income must be less than \$43,320 for an individual or \$88,200 for a family of four.
Penalty	<p>Penalty for Failure to Offer Coverage: \$2,000 per FTE (even for FTEs enrolled/eligible for enrollment in employer’s plan) but ONLY IF one or more qualified FTEs enrolls in an exchange and qualifies for a premium tax reduction or cost-sharing reduction.</p> <ul style="list-style-type: none"> • To determine number of FTEs for purposes of calculating penalty, determine total full-time equivalent employees (as above) and reduce by 30. • Penalty calculated on monthly basis at \$166.66 per month.



Mandatory Coverage and Penalties	
Penalty	<p>Penalty for Failure to Offer Affordable Coverage. \$3,000 per qualified FTE who enrolls in an exchange and qualifies for a premium tax reduction or cost-sharing reduction.</p> <ul style="list-style-type: none"> • Penalty calculated on monthly basis at \$250 per month • Penalty does not apply if free choice voucher requirements apply.
Vouchers	<p>Vouchers: Employers that offer coverage and pay any portion of cost must provide free choice voucher where:</p> <ul style="list-style-type: none"> • employee contribution is more than 8% and less than 9.8%* of household income. (*Note: 9.8% is expected to change to 9.5% with technical amendment.) • qualified employee does not participate in employer plan, and • qualified employee enrolls in exchange. <p>Voucher amount is equal to cost which would have been paid by employer if employee were covered under the plan with respect to which the employer pays the largest portion of the cost of the plan. If exchange premium is less than voucher amount, employee gets excess.</p>



Health Care Reform: Summary of Penalties

The grid below shows how the penalties would apply to an employer that offers health coverage to employees working at least 30 hours per week. Assume the employer's plan covers at least 60% of the actuarial value of the allowed costs of the plan and the total (employer and employee) cost of coverage is \$1,000 per month. These provisions become effective in 2014.

Employee premium \leq 8% of household income	Employee premium: > 8%, but \leq 9.5%** of household income	Employee premium > 9.5% of household income	No coverage offered to FTEs
No penalties	Free choice voucher applies for every qualified employee who enrolls in exchange	\$3000 penalty per every qualified FTE who enrolls in exchange	\$2000 penalty per every FTE if ONE qualified FTE enrolls in exchange
<p>Example: For an employee whose household income is \$40,000, his required monthly contribution amount must be \$266.66 or less.</p>	<p>Example: For an employee whose household income is \$40,000, the free choice voucher rules will apply if his required monthly contribution amount is more than \$266.66 but not greater than \$316.66.</p> <p>Note: Free choice voucher required only if employee enrolls in exchange and is a qualified employee (<400% of FPL).</p>	<p>Example: For an employee whose household income is \$40,000, the penalty will apply if his required monthly contribution amount is more than \$316.66.</p> <p>Note: Penalty applies only if employee enrolls in exchange and is a qualified employee (<400% of FPL).</p>	<p>Example: Penalty will apply if any FTEs are not offered an opportunity to enroll, without regard to premium structure.</p> <p>Note: Penalty will apply if one full time employee enrolls in exchange and is a qualified employee (<400% of FPL).</p>

** As noted on the previous page, the 9.5% threshold is used in anticipation of a technical amendment that will change the current statutory provision from 9.8% to 9.5%, in order to make the free choice voucher rules dovetail with the penalties for "unaffordable" coverage.

