

Health Reform At A Glance

	Senate HR 3590 Passed March 21, 2010	House Reconciliation HR 4872 Introduced March 18, 2010	<i>Implications for Large Employers</i>
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Employer Mandate (Effective 2014)

1	Play or Pay Penalty for not offering coverage	\$750 per FTE, indexed	\$2,000 per FTE, indexed	<i>This penalty for not offering coverage might be so low as to encourage some employers to drop coverage.</i>
2	Waiting Periods Allowed	No penalty to 60 days; \$600 penalty for 61 to 90 days. Over 90 days not permitted	Up to 90 days with no penalty. Over 90 days not permitted	<i>A critical provision for high-turnover industries.</i>
3	Pay and Play Penalty for opt-outs electing coverage through the Exchange	\$3,000 (indexed) for FTEs who enroll in Exchange and receive subsidy; aggregate cap of \$2,000 times total number of FTEs	No change	<i>Even employers who offer a qualifying plan can be subject to penalties for opt-outs: Limited to low-income waivers.</i>
4	Employee Vouchers for Exchange	Employers must offer cash vouchers to employees under 400% FPL with contributions between 8.0% to 9.8% of AGI	Similar to Senate bill. 9.8% reduced to 9.5%	<i>Increases potential of anti-selection. However, limited number of employees may be eligible.</i>
5	Employer Minimum Subsidy	Not required	Not required	<i>No required level of employer funding.</i>
6	Auto Enrollment Required	Yes	No change	<i>Increased cost due to higher enrollment and more complex administration.</i>
7	Employer Reporting Requirements	Reporting to both Secretary and employees regarding minimum essential coverage	No change	<i>Similar to Part D Creditable Coverage notices; increased administrative burden.</i>

Individual Mandate (Effective 2014)

8	Play or Pay Penalty	Greater of 0.5% of AGI or \$95/person in 2014, 1.0% or \$495/person in 2015, 2.0% or \$750/person in 2016; indexed. Family flat dollar amount capped at 300% of adult	Greater of 1.0% of AGI or \$95/person in 2014, 2.0% or \$325/person in 2015, 2.5% or \$695/person in 2016; indexed. Family flat dollar amount capped at 300% of adult	<i>Employers will want to offer Qualifying Health Coverage so employees can avoid these penalties. Employer cost will increase with higher enrollment-fewer waivers.</i>
9	Minimum Value of Employer Coverage	Actuarial value of at least 60 percent	No change	<i>If actuarial value of the plan is below 60%, employees under 400% FPL are eligible for subsidized Exchange coverage and if elected, the employer is assessed a penalty.</i>
10	"Unaffordable" Employer Coverage for Employees Under 400% of FPL	Employee contributions above 9.8% of AGI – eligible for subsidized Exchange coverage and employer is assessed penalty; Between 8.0-9.8% of AGI – employee eligible for opt-out voucher from employer	Similar to Senate bill. 9.8% reduced to 9.5%	<i>If the required employee contribution is above this limit, employees under 400% FPL are eligible for subsidized Exchange coverage.</i>

Qualifying Health Coverage to Satisfy Mandate

11	Required Service Categories & Coverage (e.g. hospitalization, maternity)	Mandatory statutory list, to be supplemented by Secretary of HHS. Limited to insured plans	No change	<i>Employers will need to continually 'test' their plans for these minimum coverage requirements.</i>
12	Preventive Care must be covered @100%	Yes	No change	<i>Plans might need to be improved.</i>
13	Maximum Out-of-pocket Limit	Cannot exceed the OOP limit for HSA-compatible HDHP; Indexed	No change	<i>Plans might need to be improved.</i>
14	Prohibits Pre-existing Condition Exclusions	Yes, in 2014. For children under 19, plan years starting 6 months after enactment.	No change	<i>Reduced job lock might spur higher turnover.</i>
15	Requires Expansion of Child Coverage	Yes, through age 25	Yes, through age 25 if no access to other group coverage. Plan years beginning on/after six months after enactment	<i>Increased enrollment and costs for covering more dependents.</i>
16	Prohibits Lifetime Limits	Yes	Yes. Also restrictions on annual. Plan years beginning on/after six months after enactment	<i>Plans might need to be improved: stop-loss would become more important.</i>
17	Permits Continuation of Current Coverage without Penalty	Yes. Above provisions, waiting periods over 90 days, wellness incentives and uniform explanation of coverage provisions do not apply to a grandfathered plan	Yes, but more limited than Senate bill	<i>The application of the grandfather provisions is open to considerable interpretation.</i>

Other Employer Requirements

18	Income Tax Exclusion of Employer Health Benefits	No change to current tax law	Expanded to include adult dependents through age 26	<i>House would simplify administration and payroll.</i>
19	COBRA Expansion	Not included	Not included	<i>Availability of Exchange may reduce COBRA enrollment</i>
20	Uniform Explanation of Coverage	Federally prescribed appearance, content, language and timing. Effective 2014	No change	<i>Will need to be coordinated with other employee communications materials.</i>
21	HIPAA Wellness Incentives	Codifies HIPAA Wellness incentives, but with a maximum differential of 30%; Secretary can raise to 50%	No change	<i>Would increase wellness programs incentives. Coordination required with GINA and ADA requirements.</i>

Retiree Health

22	Retiree "Maintenance of Effort" Requirement	No provision	No provision	<i>Provision that was included in the House bill was opposed by business and labor alike.</i>
23	Reinsurance Program for Early Retirees (55-64)	\$5B to subsidize 80% of a retiree's costs between \$15K-\$90K. Effective 90 days after enactment through 2013	No change	<i>Temporary bridge to support employer retiree plans until Exchange is effective; administration appears similar to RDS.</i>
24	Coverage in Part D Donut Hole	Drug manufacturers required to discount brand drugs in donut hole by 50%, starting July 2010	Follows Senate bill plus \$250 rebate in 2010 for beneficiaries who reach donut hole. Phases out donut hole by 2020	<i>Makes participation in Part D more attractive to employers relative to RDS. May result in plans falling actuarial equivalence.</i>

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Insurance Market Reform for Individuals and Small Groups

25	Minimum Benefit Package	Bronze, Silver, Gold and Platinum with actuarial values of 60% - 90%	No change	<i>Sponsors would retain some (but not complete) latitude in setting plan design for programs offered through the Exchange.</i>
26	Guaranteed Issue and Renewability	Yes. Also includes interim high risk pool for currently uninsured	No change	<i>More robust individual market is especially valuable to former employees, particularly early retirees.</i>
27	Community Rating – Limits on age rating	3 to 1 ratio maximum (50% surcharge also permitted for tobacco use)	No change	<i>The need for COBRA declines but adverse selection worsens. Employers might find it cheaper to provide vouchers for individual coverage to early retirees instead of self-insuring this risk.</i>
28	Medical Loss Ratios - Minimum Standards	75% Individual market; 85% Group market; sunsets December 31, 2013	Similar to Senate, except 80% for Individual market	<i>More robust individual market is especially valuable to former employees, particularly early retirees.</i>
29	Small Employer Subsidies	Yes, up to 25 employees	No change	<i>Will some large employers now be at a competitive disadvantage?</i>

Purchasing Exchanges (Effective 2014)

30	Exchanges	State-based exchanges for individuals and small employers starting in 2014	No change	<i>Similar to the Massachusetts Connector. Initially, only an option for individuals and small employers.</i>
31	Low Income Premium Subsidy in the Exchange	Affordability credits up to 400% of the federal poverty level	Similar to Senate with increased premium subsidies	<i>With generous subsidies to low income workers, employers might not want to duplicate these efforts with salary-based cost-sharing.</i>
32	Public Plan Option	No. Instead the U.S. Office of Personnel Management would contract with national or multi-state health insurance plans	No change	<i>A public plan was viewed by some as a stalking horse for a single-payer system.</i>

Financing

33	Income Tax Provisions	Itemized medical deduction threshold increased from 7.5% to 10%. Starts in 2013	No change	<i>Even greater pressure on employers to offer tax-advantaged compensation and benefits.</i>
34	Medicare Hospital Insurance Tax	Increases tax rate from 1.45% to 2.35% starting in 2013 for high income earners. (Income in excess of \$250K joint filers; \$200K others)	Same as Senate but also implements a new 3.8% tax on net investment income. (Income in excess of \$250K joint filers; \$200K others)	<i>Payroll tax increase only applies to employees, not employer. Increased interest by high paid employees in tax deferrals.</i>
35	"Cadillac Plan" Excise Tax	40% tax on value above \$8,500/individual and \$23,000/family (2013; indexed at CPI-U+1%). \$9,850/ \$26,000 for retirees and high risk industries. Includes dental, vision, health FSA, HRA and HSA. Temporary higher limits for 17 high-cost states	40% tax on value above \$10,200/individual and \$27,500/family (2018; indexed at CPI-U+1% for 2019, CPI-U only after 2019). \$11,850/ \$30,950 for retirees and high risk industries. Higher indexing based on age and gender. Excludes dental and vision.	<i>Deferral of excise tax to 2018 mitigates impact. However, in 2018 the tax will apply to many employer plans. Elimination of executive programs.</i>
36	Annual Provider Surcharges	Pharmaceutical manufacturers (\$2.3B in 2009+), medical devices (\$2.0B 2010-16, \$3.0B 2017+), and insurers (\$2.0B in 2011 to \$10.0B in 2017 and later)	Pharmaceutical manufacturers (\$26B over over 9 years starting in 2011; indexed after 2019), medical devices 2.3% excise tax starting in 2013, and insurers (\$58.8B over 5 years starting in 2014; \$14.3B/year trended after 2018)	<i>Potential for increased cost-shifting.</i>
37	Exchange Reinsurance Program	\$25B tax on insurers and TPAs from 2014 to 2016 for Exchange reinsurance program	No change	<i>Potential for increased cost-shifting.</i>
38	Comparative Effectiveness Research	Tax on insured and self-funded plans of \$1/ee/yr in 2013, \$2 in 2014 (indexed)	No change	<i>Potential for increased or additional taxes in the future.</i>
39	Cap Health FSAs at \$2,500	Yes, starting in 2011; indexed	Same as Senate, except starting in 2013	<i>Employer redesign required.</i>
40	Tax on Indoor Tanning Services	10% excise tax on indoor tanning services, starting in July, 2010	No change	<i>Generally will not impact employer plans.</i>
41	Reporting Plan Value on W-2	Yes, starting in 2011	No change	<i>Value of coverage is disclosed but not taxed directly to employees.</i>
42	Standardize Definition of Medical Expenses	Yes, starting in 2011	No change	<i>Prohibits reimbursement for OTC medicines from FSAs, HRAs, and HSAs.</i>
43	Medicare Part D Premiums	Increased for higher income retirees	No change	<i>Makes employer-provided Rx that much more attractive to high income retirees.</i>
44	Taxability of RDS payments to employers	Yes, starting in 2011	Same as Senate, except starting in 2013	<i>Would increase costs of retiree plans and would make participation in Part D (EGWP) more attractive. Immediate recognition.</i>
46	Funding for Medicare Advantage Plans	Reduced payments	Payments frozen for 2011, reduced benchmarks starting in 2012	<i>Increased retiree premiums for Medicare Advantage plans; reduced enrollment.</i>
47	Penalty for Non-qualified HSA Withdrawals	Increased from 10% to 20% starting in 2011	No change	<i>Little to no impact on plan sponsors.</i>