



### **Small Business Tax Credit**

*Effective Date: 2010 Tax Year*

Small businesses that offer health care to employees may be eligible for tax credits up to 35 percent of their premium costs for up to two years. The credit applies to businesses with 25 or fewer full-time employees and average wages below \$50,000.

<http://www.irs.gov/newsroom/article/0,,id=223666,00.html>

### **Grandfathered Health Plans**

*Effective Date: March 23, 2010*

A “Grandfathered” plan is any health plan that was in effect on March 23, 2010, the date of the new law’s enactment. Plans are no longer grandfathered when there are significant reductions, terminations or increased costs to benefits, “in ways that might discourage participants from seeking needed treatment.” Members of a health plan that lose grandfathered status will gain the new benefits that are mandated in the Affordable Care Act.

Although rules regarding status have not been clearly defined, interim regulations released on June 14, 2010 provide general guidelines. If your plan has significant changes similar to the following examples the plan will lose grandfathered status:

- Eliminate benefits
- Increase co-insurance
- Increase co-pays by more than \$5 plus 15%
- Increase other cost sharing more than 15%
- Decrease employer contributions more than 5%
- Tighten or add lifetime or annual dollar limits
- Move to a new insurance provider

Grandfathered plans **will** be required to implement some of the health care reforms. Effective for plan years beginning after September 23, 2010, all plans must:

- Not include lifetime limits for essential benefits
- Have no pre-existing condition limits for children under 19
- Extend coverage to adult children to age 26
- Ban rescissions except in the case of fraud

Grandfathered plans **will** be required to comply with additional reforms for the 2014 plan year. All plans must:

- Have no pre-existing condition exclusions regardless of age
- Limit enrollment wait periods to 90 days maximum
- Not include annual limits on essential benefits

Grandfathered plans will **not** be required to implement the following requirements:

- Complying with Sec. 105 discrimination rules
- Providing preventive care coverage at no cost
- 2014 requirement for community rating/no medical underwriting
- Requirement that coverage is included for clinical trials

### **Grandfathered Health Plans (cont.)**

There are protections for employers who have made recent changes to their group health plan that may have caused them to lose grandfathered status. Transition rules apply to plans that have made changes after March 23, 2010 and before the issuance of the Interim Rules on June 14, 2010:

- **Changes Prior to March 23, 2010** – Policies or plans will not lose grandfathered status if changes were adopted before March 23, 2010, even if the changes take effect after March 23, 2010. The changes must have been according to plan amendments, insurance filings or binding contracts.
- **Good Faith Compliance** - Plan changes after March 23, 2010 but before June 14, 2010 that “only modestly exceed” any of the requirements will be allowed for the current plan year.
- **Grace Period** – Plans that did make significant changes before the interim rules were released will be allowed a grace period to comply. The grace period shall last until the start of the next plan year beginning after September 23, 2010.
- Plans renewing after June 14, 2010 will not have a grace period or be provided any good faith compliance allowance.

<http://www.dol.gov/ebsa/healthreform>

[http://www.healthreform.gov/newsroom/keeping\\_the\\_health\\_plan\\_you\\_have.html](http://www.healthreform.gov/newsroom/keeping_the_health_plan_you_have.html)

### **Sec. 105 Non-Discrimination Rules**

*Effective Date: New plans beginning on or after September 23, 2010 and calendar year plans beginning on January 1, 2011.*

Section 105 of the Internal Revenue Service Code prohibits health plans from discriminating in favor of highly compensated employees in regard to their eligibility or the benefits provided. Prior to September 23, 2010 this rule only applied to self-insured plans. New fully insured health plans will not be able to discriminate in favor of highly compensated individuals. Benefits offered to highly compensated individuals must be offered to all eligible plan participants.

### **Not applicable to plans with Grandfathered Status**

### **Pre-existing Condition Exclusions**

*Effective Date: Plan years beginning on or after September 23, 2010.*

Group health plans and insurers will be prohibited from imposing any pre-existing condition limitations for children under the age of 19. Plans will be prohibited from including any pre-existing condition exclusions for any enrolled individual beginning in 2014.

### **Preventive Care Changes**

*Effective Date: January 1, 2011*

Group health plans and insurers will be required to cover most preventive care in full. Members of the health plan will not be required to pay co-payments or share in the cost for proven preventive services rated A or B by the U.S. Preventive Services Task Force (USPSTF).

<http://www.ahrq.gov/clinic/uspstfix.htm>

### **Not applicable to plans with Grandfathered Status**

## **Coverage for Adult Children to age 26**

*Effective Date: September 23, 2010 or plan renewal date following September 23, 2010.*

Group health plans and insurers will be required to cover adult children up to age 26. The new rule applies to married and un-married children.

Adult children:

1. Are not required to live with their parents,
2. Do not have to be a dependent on their parent's tax return and
3. Do not have to be a student.

**Grandfathered Plans: the dependent must not be eligible for any other employer-sponsored coverage. This exception applies until the 2014 plan year.**

Many carriers have complied with the legislation ahead of September 23<sup>rd</sup> by allowing overage dependents to remain under their parent's coverage. They would have otherwise been required to drop coverage or provide student verification.

Most often, the employer's open enrollment window will be the next eligible enrollment date. Employees must be notified within 30 days of their open enrollment of the new coverage option.

Tax rules for adult dependents have been updated. The value of employer provided health coverage for adult children is excluded from employee income.

*Insurers can exclude coverage of pre-existing conditions to the extent allowed by law.*

<http://www.dol.gov/ebsa/pdf/fsdependentcoverage.pdf>

## **Limits on Lifetime & Annual Benefit Amounts**

*Effective Date: Plan years beginning on or after September 23, 2010.*

Group health plans and insurers will be prohibited from imposing any lifetime maximum dollar limits for essential health benefits (EHB's).

New plans effective after September 23, 2010 may only impose annual dollar limits on essential benefits as defined by the Secretary of Health and Human Services. The Secretary has yet to determine which services constitute EHB's and non-EHB's. After January 1, 2014 all dollar limits will be removed. At a minimum, the following services must be included as essential health benefits:

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care.
- Mental health, substance use & behavioral health
- Prescription drugs
- Rehabilitative services and devices
- Laboratory services
- Preventive, wellness and chronic disease
- Pediatric services, including oral and vision care

## **W-2 Reporting**

*Effective Date: 2011 Tax year*

Employers will be required to calculate and include the value of health coverage on an employee's W-2. The rule applies to tax years beginning January 1, 2010. Payroll systems will need to be updated by January 2011 ensuring that W-2's are available starting February 1, 2011. Although most W-2's will be issued to employees in January 2012, employees can request one and may do so if they terminate employment. Tax treatment of the coverage does not change.

### **Over-the Counter (OTC) Drugs**

*Effective Date: January 1, 2011*

Over-the-counter drugs and medications will no longer be reimbursable under health Flexible Spending Accounts (FSA's), Health Reimbursement Arrangements (HRA's) or Health Savings Accounts (HSA's) without a doctor's prescription.

### **HSA Excise Tax**

*Effective Date: January 1, 2011*

Distributions from a health savings account (HSA) for nonmedical expenses will be penalized more severely starting in 2011. The tax penalty will increase from 10 percent to 20 percent.

### **CLASS Act Long-Term Care (LTC) Program**

*Effective Date: January 1, 2011*

The legislation establishes a voluntary federal program for employees to purchase long-term care coverage. The Community Living Assistance Services and Supports (CLASS) Act is intended to provide a baseline for extended care. The premiums can be paid for entirely by the employee and are eligible for pre-tax payroll deduction. The Congressional Budget Office estimates a monthly premium of \$123.

While the plan is scheduled to begin January 1, 2011, several things need to happen before payroll deductions can be made. The HHS Secretary must develop three plan options, create an advisory council and receive public comment before the plan is implemented. The deadline is October 1, 2012.

### **Wellness Grant Program**

*Effective Date October 1, 2010*

Employers with less than 100 employees (who work 25 hours or more per week) may be eligible for a federal grant to implement a wellness program. To be considered eligible, the employer must not have an existing wellness program in place on the date of enactment (March 23, 2010). The employer must implement a wellness program that includes health awareness initiatives, efforts to maximize employee participation, initiatives to change unhealthy behaviors & lifestyle choices and supportive environment efforts. The grant program runs through 2015 or until the \$200M appropriation is exhausted.

### **Nursing Mothers**

*Effective Date: Immediately*

Employers must provide a reasonable break time for employees who are nursing mothers (to express breast milk) for a period of one year following the birth of the child. The employer must provide a place that is shielded from view and free from intrusion of co-workers and the public. A bathroom is specifically excluded as an appropriate place. Employers with fewer than 50 employees may be considered exempt from this requirement if this causes "undue hardship" by causing "significant difficulty or expense" (these terms have not yet been defined).

### **Ban on Rescissions of Coverage**

*Effective Date: Plan years beginning on or after September 23, 2010.*

All fully-insured, self-insured and grandfathered plans are prohibited from rescinding coverage, except in the cases of fraud or an intentional misrepresentation of a material fact.

### **Primary Care Physician**

*Effective Date: Plan years beginning on or after September 23, 2010.*

Fully-insured and self-insured plans must permit enrollees to designate any in-network doctor as their primary care physician.

### **Not applicable to plans with Grandfathered Status**

### **New Coverage Appeals Process**

Fully-insured and self-insured plans must provide an appeal process for appeals of coverage determination that includes an internal claims appeal process, certain notice requirements, evidentiary requirements, and an external review process.

### **Not applicable to plans with Grandfathered Status**

### **Automatic Enrollment**

*Effective Date: Not Specified*

Employers with more than 200 full-time employees offering health coverage must automatically enroll new full-time employees. The employee may opt-out of coverage. This requirement is still pending issuance of regulations.

### **Retiree Reinsurance**

*Effective Date: June 23, 2010*

A Federal reinsurance program has been established to reimburse plan sponsors that provide coverage to retirees 55 or older and not Medicare eligible. Reimbursements can reach up to 80% of claims paid between \$15,000 and \$90,000. Plan sponsors must implement cost-saving programs for high-cost and chronic conditions. Reimbursement must be used to reduce costs for participants. The program has set aside \$5 billion in funds and the program lasts until 2014 or when the funds have been depleted.