

Patient Protection and Affordable Care Act of 2010 (PPACA)

Timeline for Individuals, Employers, and Plans¹

EFFECTIVE DATE: 2010²

Individuals	Employers	Plans
	<p><u>Small Business Tax Credit (1st Phase)</u>: Tax credit for small employers (up to 25 FTE; average wage <\$50,000) if at least 50% contribution made to employee health ins. For tax years 2010 through 2013, credit = up to 35% of premiums paid (25% for tax-exempt employers)</p>	<p><u>No PCEs for kids under 19</u>: Cannot impose preexisting condition limitations (PCEs) on kids under 19</p> <p><u>No Lifetime Limits</u>: No lifetime benefit maximums for “Essential Health Benefits” (EHBs)⁴</p> <p><u>Restricted Annual Limits for EHBs</u>: Plan can impose annual limits on dollar value of EHBs for participants or beneficiaries in the discretion of HHS</p> <p><u>Older Dependent Coverage</u>: Must cover dependents until 26th birthday, regardless of marital status, if no access to another employer plan. Does <u>not</u> include children of dependent children</p> <p><u>Tax Treatment of Older Dependents</u>: Income tax exclusion under Code Section 105 extended to age 27</p> <p><u>Ob/Gyn Care*</u>: Plans cannot impose authorization prerequisite for ob/gyn care for designated participating primary care provider</p> <p><u>Preventive Coverage*</u>: Plans must cover, without cost sharing, certain preventive services (e.g., immunizations, infant screenings, etc.)</p>

¹ A * denotes requirements from which plans may qualify for Grandfather protection for a certain period of time. Please consult with your legal counsel to determine if your plan may qualify.

² For employer requirements, effective date is immediate. For Plan requirements, the effective date is the first day of plan years beginning on or after September 23, 2010.

³ Special Construction Industry Rule: Construction industry employers with 5-50 full-time employees and annual payroll in excess of \$250K subject to Pay or Play.

⁴ EHB is not yet defined, but will include the following: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services; including behavioral health treatment; prescription drugs; rehabilitative services and devices; laboratory services; preventative and wellness services; chronic disease management; pediatric services, including oral and vision care.

EFFECTIVE DATE: 2010² (cont'd)

Individuals	Employers	Plans
		<p><u>Primary Care Doctor*</u>: Plans must allow designation of any available doctor as primary care doctor</p> <p><u>Emergency Services*</u>: Plan must cover without prior authorization and as though in-network</p> <p><u>New Appeals Procedure*</u>: Plans must provide for “external review” in accordance with Secretary’s guidance</p> <p><u>No Rescission</u>: Plan cannot rescind coverage once person is enrolled <u>unless</u> fraud or intentional misrepresentation of material fact <u>and</u> plan’s terms prohibit such fraud / misrepresentation</p> <p><u>Retiree Subsidy Available</u>: Feds will reimburse eligible plans (including multiemployer plans) 80% of “early retiree” health claims between \$15,000 - \$90,000. Secretary to issue details by end of June 2010.</p> <p><u>Wellness Changes</u>: Plan cannot require disclosure of lawful firearm or ammo, storage, or use. Carrot/stick limits raised from 20% to 30%; may go to 50% in HHS discretion</p>

¹ A * denotes requirements from which plans may qualify for Grandfather protection for a certain period of time. Please consult with your legal counsel to determine if your plan may qualify.

² For employer requirements, effective date is immediate. For Plan requirements, the effective date is the first day of plan years beginning on or after September 23, 2010.

³ Special Construction Industry Rule: Construction industry employers with 5-50 full-time employees and annual payroll in excess of \$250K subject to Pay or Play.

⁴ EHB is not yet defined, but will include the following: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services; including behavioral health treatment; prescription drugs; rehabilitative services and devices; laboratory services; preventative and wellness services; chronic disease management; pediatric services, including oral and vision care.

EFFECTIVE DATE: 2011

Individuals	Employers	Plans
	<p><u>Large Employer Auto-Enroll</u>: Employers with 200+ employees must enroll all employees automatically, & allow for opt out (multiple plans = employer choice)</p> <p><u>Reporting Coverage Costs on Form W-2</u>: Employers must disclose value of benefit provided by employer for each employee’s coverage on employee’s W-2</p> <p><u>CLASS Act</u>: Gov’t-run, long-term care program created; unclear, but employers may have to help enroll employees and handle paycheck withholdings</p>	<p><u>HSAs*</u>: Excise tax for nonqualified HSA withdrawals increases from 10% to 20%</p> <p><u>OTC Medicines</u>: Over-the-counter medicine (other than doctor-prescribed) cannot be reimbursed through health FSA, HRA, HSA or Archer MSA</p>

EFFECTIVE DATE: 2012

Individuals	Employers	Plans
	<p><u>Comparative Effectiveness Fee</u>: Effective first plan year ending after September 30, 2012, per participant fee payable by plan sponsors (if self-funded = employer) Fee is \$1 per participant for first plan year, \$2 thereafter (subject to inflation adjustment in 2014; phase-out in 2019)</p>	

¹ A * denotes requirements from which plans may qualify for Grandfather protection for a certain period of time. Please consult with your legal counsel to determine if your plan may qualify.

² For employer requirements, effective date is immediate. For Plan requirements, the effective date is the first day of plan years beginning on or after September 23, 2010.

³ Special Construction Industry Rule: Construction industry employers with 5-50 full-time employees and annual payroll in excess of \$250K subject to Pay or Play.

⁴ EHB is not yet defined, but will include the following: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services; including behavioral health treatment; prescription drugs; rehabilitative services and devices; laboratory services; preventative and wellness services; chronic disease management; pediatric services, including oral and vision care.

EFFECTIVE DATE: 2013

Individuals	Employers	Plans
<p><u>Medicare Tax</u> – Additional 0.9% Medicare tax for employees (not employers) on wages over \$200,000 (\$250,000 for joint filers), for a total of 2.35%</p> <p><u>Unearned Income</u> – New 3.8% tax on unearned income (e.g., from interest, dividends, rents, royalties and annuities) if income over \$200,000 (\$250,000 for joint filers)</p>	<p><u>Deduction for Employer Part D Subsidy Eliminated:</u> Eliminates deduction for subsidy for employers who maintain prescription drug plans for Medicare Part D eligible retirees (if received, deductions must be reduced by amount of subsidy)</p> <p><u>Notice of HIE to Employees:</u> Employer must notify employees of: 1) existence of HIE, including services & contact info; and 2) existence of premium tax credit if total allowed costs of benefits is less than 60%</p>	<p><u>Health FSA Cap:</u> Health FSA contributions limited to \$2,500 (inflation-adjusted beginning 2014)</p> <p><u>Quality of Care Reporting*:</u> Secretary to develop requirements related to quality of care items (e.g., effective case management, preventing hospital readmissions). Plan submits report annually to Secretary and enrollees</p> <p><u>Standardized Plan Summary:</u> Secretary to develop standard summary of benefits and coverage explanation to be 4 pages in length with 12-point font</p>

EFFECTIVE DATE: 2014

Individuals	Employers	Plans
<p>The “<u>Individual Mandate</u>”: all US Citizens must have MEC through private market, employer, or gov’t. Must be more than excepted benefits (e.g., health FSA, vision, etc.). Noncompliance = fines: \$95 to start; ramps up to \$695 in 2017. Exceptions: Native Americans; religious; incarcerated</p>	<p><u>Small Business Tax Credit</u> (2nd phase): Tax year 2014+ : up to 50% of employer contribution (35% for tax-exempt)</p>	<p><u>No Annual Dollar Limits</u></p> <p><u>No PCEs for Anyone</u></p> <p><u>Older Dependent Coverage:</u> Applies to any child, regardless of access to other coverage</p> <p><u>No Annual Limits for EHBs:</u> Plan cannot impose annual limits on dollar value of EHBs</p>

¹ A * denotes requirements from which plans may qualify for Grandfather protection for a certain period of time. Please consult with your legal counsel to determine if your plan may qualify.

² For employer requirements, effective date is immediate. For Plan requirements, the effective date is the first day of plan years beginning on or after September 23, 2010.

³ Special Construction Industry Rule: Construction industry employers with 5-50 full-time employees and annual payroll in excess of \$250K subject to Pay or Play.

⁴ EHB is not yet defined, but will include the following: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services; including behavioral health treatment; prescription drugs; rehabilitative services and devices; laboratory services; preventative and wellness services; chronic disease management; pediatric services, including oral and vision care.

EFFECTIVE DATE: 2014 (cont'd)

Individuals	Employers	Plans
<p><u>Premium Assistance Credits</u>: available for individuals whose income is between 100% and 400% of federal poverty level</p> <p><u>Free-Choice Voucher</u> : available to employees (1) whose required contribution under employer plan would be between 8% and 9.5% of household income; (2) who do not make more than 400% of federal poverty level; and (3) who do not enroll in employer plan</p>	<p><u>Reports to Gov't (full) and Employees (summary)</u>: employer with 50+ employees (or any size if offer MEC) must report: Who pays costs; name of each employee and dependent covered; number of full-time employees; length of waiting period; monthly premium of lowest cost option; employer's share of cost; actuarial value, etc.</p> <p><u>Reinsurance Fee</u>: Imposed on insurers, not employers, but probably passed through to employers who self-fund their own plan (ends in 2017)</p> <p><u>Pay or Play</u>: Employers employing an average of 50 employees or more on during preceding calendar year must offer MEC to FT employees, or face a fine.³</p> <p>Offer No Plan = \$2000/year/full-time employee, not counting the first 30</p> <p>Offer Unaffordable Plan: If (1) coverage offered to an individual with family income up to 400% of federal poverty level AND EITHER (2) actuarial value is less than 60% OR (3) any employee's required premium is greater than 9.8% of household income, then either</p> <p>(A) fine of LESSER of: (1) \$2,000 x total number of full-time employees or (2) \$3,000 x number of employees receiving tax subsidy; <u>or</u></p> <p>(B) Free-Choice Voucher must be offered</p>	<p><u>Clinical Trials*</u>: Plan cannot deny participation or routine patient costs due to participating in clinical trial for certain conditions (e.g., cancer)</p> <p><u>No Waiting Periods Greater than 90 Days.</u></p>

¹ A * denotes requirements from which plans may qualify for Grandfather protection for a certain period of time. Please consult with your legal counsel to determine if your plan may qualify.

² For employer requirements, effective date is immediate. For Plan requirements, the effective date is the first day of plan years beginning on or after September 23, 2010.

³ Special Construction Industry Rule: Construction industry employers with 5-50 full-time employees and annual payroll in excess of \$250K subject to Pay or Play.

⁴ EHB is not yet defined, but will include the following: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services; including behavioral health treatment; prescription drugs; rehabilitative services and devices; laboratory services; preventative and wellness services; chronic disease management; pediatric services, including oral and vision care.

EFFECTIVE DATE: 2018

Individuals	Employers	Plans
	<p><u>Cadillac Tax</u>: 40% nondeductible tax on “excess benefit” of coverage. “Excess” based on limits: \$10,200 for singles; \$27,500 for family. High-risk profession: limits increase to \$11,850 (s); \$30,950 (f). Paid by: insurer (if fully-insured); employer (for HSA and MSA contributions); and “person that administers plan benefits” for self-funded plan</p>	<p><u>Cadillac Tax</u>: 40% nondeductible tax on “excess benefit” of coverage. “Excess” based on limits: \$10,200 for singles; \$27,500 for family. High-risk profession: limits increase to \$11,850 (s); \$30,950 (f). Paid by: insurer (if fully-insured); employer (for HSA and MSA contributions); and “person that administers plan benefits” for self-funded plan</p>

Fine Print

This presentation and any materials and/or comments are training and educational in nature only. They do not establish an attorney-client relationship, are not legal advice, and do not serve as a substitute for legal advice. No comment or statement in this presentation or the accompanying materials is to be construed as an admission. The presenter reserves the right to qualify or retract any of these statements at any time. Likewise, the context is not tailored to any particular situation and does not necessarily address all relevant issues or necessarily reflect the current state of the law in any particular jurisdiction or circumstance as of the time of the presentation. Parties participating in the presentation or accessing of these materials are encouraged to engage competent legal counsel for consultation and representation in light of the specific facts and circumstances presented in their unique circumstance.

Abbreviations:

EE: Employee	GF: Grandfather	MEC: Minimum Essential Coverage
EHB: Essential Health Benefit	HIE: Health Insurance Exchange	PCE: Preexisting Condition Exclusion
FSA: Health Flexible Spending Account	HHS: U.S. Dept of Health & Human Services	PPACA: Patient Protection and Affordable Health Care Act of 2010
FT: Full-Time	HRA: Health Reimbursement Account	
FTE: Full-Time Equivalent	HSA: Health Savings Account	

¹ A * denotes requirements from which plans may qualify for Grandfather protection for a certain period of time. Please consult with your legal counsel to determine if your plan may qualify.

² For employer requirements, effective date is immediate. For Plan requirements, the effective date is the first day of plan years beginning on or after September 23, 2010.

³ Special Construction Industry Rule: Construction industry employers with 5-50 full-time employees and annual payroll in excess of \$250K subject to Pay or Play.

⁴ EHB is not yet defined, but will include the following: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services; including behavioral health treatment; prescription drugs; rehabilitative services and devices; laboratory services; preventative and wellness services; chronic disease management; pediatric services, including oral and vision care.