

**Health Care Reform: Action Plan for 2010 and Beyond**

In general:

- Compliance obligations will vary depending on whether plan is fully insured or self-funded
  - Even if fully insured, employers will have compliance obligations
- Compliance obligations will vary depending on whether plan is grandfathered
- Compliance will be an evolving process as guidance is issued

For 2010:

- Determine if plan(s) are grandfathered
  - Analyze impact on plan design if (or if not) grandfathered
- Determine deadline for compliance with first set of coverage mandates
  - First plan year on/after 9/23/10 (different rule for collectively bargained plans)
- Coordinate with benefits consultant, carriers, TPAs, payroll, and IT
- If the plan covers early retirees, file for early retiree reinsurance subsidy
  - Determine if any claims qualify and gather supporting documentation
  - Prepare necessary documents and apply for certification
  - Submit claims
- Determine whether small employer tax credit applies
  - Consult with tax professional
- Amend plan materials to reflect plan design changes
  - SPDs, plan documents, wrap documents, enrollment materials, web sites, handbooks, etc.
- Amend, as necessary, cafeteria plan document by 12/31/10
  - Adult dependent coverage
  - No coverage of over-the-counter medications
- If not grandfathered, conduct nondiscrimination testing and amend plan terms as necessary (this requirement has been delayed until guidance is issued)

- Prepare a communications strategy
- At open enrollment, distribute:
  - Distribute new SPD or summary of material modifications
  - Include in plan materials statement of grandfather status
  - Notice of opportunity to enroll adult dependents
  - Notice that lifetime limit no longer applies and enrollment opportunity
  - Include in plan materials patient protection notice (designation of primary care provider and pediatrician, and no pre-authorization for ob-gyn)
  - Model notices available ([www.dol.gov/ebsa/healthreform](http://www.dol.gov/ebsa/healthreform))
- Prepare for new W-2 reporting requirements (voluntary for 2011; awaiting further guidance)
  - Consult with payroll or payroll vendor
- Watch for developments

For 2011 and Beyond:

- Amend cafeteria plan to reflect limits on health FSA contributions (before 1/1/13)
- Calendar new reporting and disclosure obligations (existing requirements still apply; awaiting guidance on all the following reporting and disclosure requirements):
  - Uniform summary of coverage and notice of material modifications (3/23/12)
  - Reports on quality of care (3/23/12)
  - Notice of the availability of Exchange (3/1/13)
  - Any person who provides “minimum essential coverage” to an individual must report and disclose (1/1/14)
  - Large employers must report and disclose whether they offer “minimum essential coverage” (1/1/14)
  - Transparency in coverage reporting (effective date unclear, may be required when Exchanges created)
- Implement CLASS Act long-term care program (plan options not available until 10/12)

- Prepare for plan design changes taking effect with first plan year on/after 1/1/14
- Plan for availability of Exchange options (1/1/14)
- Plan for need to provide vouchers (1/1/14)
- Plan for potential employer penalties (1/1/14)
- Plan for imposition of Cadillac Tax (1/1/18)

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This is only a brief summary of certain provisions of the health care reform law and the regulations and guidance implementing the law. The terms of the law, and the guidance and regulations implementing the law, can be detailed and complex, and this summary does not purport to cover every aspect of each law, regulation, or other guidance. This summary does not constitute legal advice. Employers should consult their own legal counsel concerning whether and how the law and regulations should be implemented, and whether there are other labor and employee benefit legal standards that need to be put into place or updated.