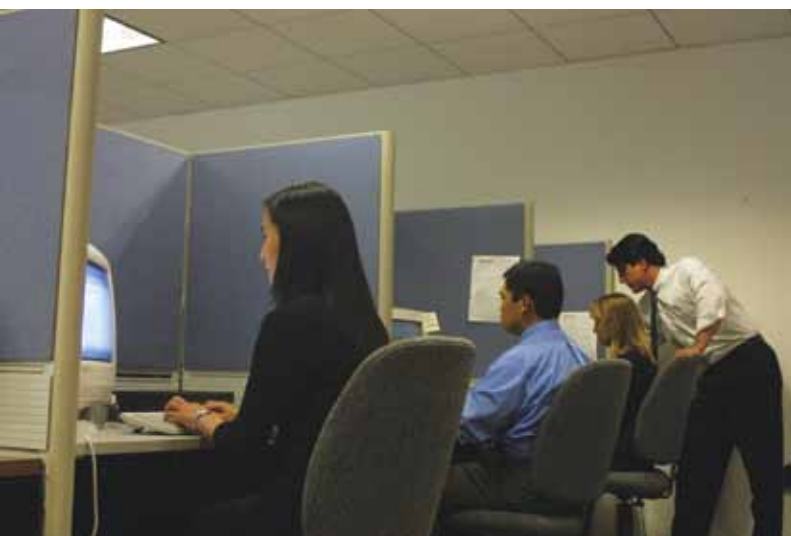


# Benefit Insights

## ***A Look at Healthcare Reform's Impact on Employers***

On March 23, 2010, President Obama signed into law the Patient Protection and Affordable Care Act. Along with the Health Care and Education Reconciliation Act of 2010, this legislation will make significant changes to our current health care system.



The Act adds new responsibilities for employers and insurance carriers. While most of the provisions will start in 2014 or later, some provisions are effective right away or within a short period of time after enactment.

### ***Effective 2010***

- **Small-Business Tax Credit.** A tax credit of up to 35 percent of the employer's health care contribution is available for qualified small employers (any employer with no more than 25 full-time employees and average wages of

less than \$50,000). This tax credit will increase to 50% starting in 2014 once exchanges are operational.

- **Early Retirees.** A temporary reinsurance program is provided to employers that offer coverage to early retirees between the ages of 55 and 64.
- **Health Plan Changes.**
  - 1) Plans must offer unlimited lifetime benefits and annual benefit limits will be restricted.
  - 2) Pre-ex conditions will be prohibited for children under 19.
  - 3) Recissions are prohibited except in the case of fraud.
  - 4) Plans must cover certain preventive health services at no cost to the insured.
  - 5) Dependent coverage age limit extended to 26.
- **Federal High Risk Pool.** Temporary establishment of a high risk health insurance pool for individuals unable to find insurance elsewhere.

### ***Effective 2011***

- **W-2 Reporting.** Employers must report value of health care benefits provided on employee w-2s, but not as taxable income.
- **Higher Penalty Tax on Non-Qualified Health Savings Account (HSA) Withdrawals.** Non-qualified withdrawals will be taxed at 20% versus the current 10% penalty.
- **Cafeteria Plans.** A new Simple Cafeteria Plan is created through which small employers (less than 100 employees) can easily provide tax-free benefits to their employees without the administrative burden of sponsoring a cafeteria plan.

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We are pleased to present to you our quarterly agency newsletter. This newsletter is designed to give you timely and important information regarding employee benefits, government regulations, new products, and other areas of interest to employers and their employees. We value you, your employees, and your business and continue to strive to provide you with the very best products and service available.

Thank you again for your business





## ***IRS Health Care Tax Credit Available for Small Businesses***

The recent health care legislation signed into law by President Barack Obama contains a Small Business Health Care Tax Credit that will help small businesses with the cost of providing their employees with health care. The tax credit's benefits are available immediately for the 2010 tax year.

According to the Congressional Budget Office, small businesses are expected to save an estimated \$40 billion by 2019, due to the Small Business Health Care Tax Credit. The tax credit is effective retroactive to January 1st, 2010 and covers up to 35 percent of a small business's premiums, with the rate increasing to 50 percent on January 1st, 2014.

While non-profit organizations are eligible for the credit, they will receive a lower percentage. Tax exempt organizations will be able to receive up to a 25 percent tax credit in 2010, which will be raised to 35 percent in 2014.

The tax credit has broad eligibility, covering 4 million small businesses. Any business that pays at least 50 percent of employee health care costs, employs the equivalent of 25 or fewer fulltime workers (allowing eligibility for companies with 50 part-time workers), and pays an average employee salary of \$50,000 or less (not including owners and their family

members) will be eligible for the Small Business Health Care Tax Credit.

The maximum credit of 35% is available for small businesses with 10 or fewer fulltime workers and an average salary of \$25,000 or less. For businesses that pay employees between an average of \$25,000 and \$50,000, the tax credit gradually phases out. The gradual phase out also applies to businesses that employ an equivalent of 10 to 25 full time workers (20 to 50 part time workers).

Businesses are able to claim the credit for a total of six years. They will be eligible to claim the credit for four years, from 2010 to 2013, and then any two years after the 2013 date.

To keep businesses from abusing the system by picking a high-cost plan, the Small Business Health Care Tax Credit will only be eligible for the average health insurance cost of the state where the business is located. This information will be provided by the IRS at a later date.

For more information, refer to the IRS website at <http://www.irs.gov/newsroom/article/0,,id=220809,00.html?portlet=6>.

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- **Standardized Definition of Qualified Medical Expenses.** Costs for over-the-counter medications obtained without a prescription will no longer be considered a qualified medical expense.

#### ***Effective 2013***

- **Flexible Spending Account Limits.** Annual contribution limits are reduced to \$2,500 per year, with CPI increases available in future years.
- **Itemized Deduction for Medical Expenses.** The Act increases the income threshold for claiming the itemized deduction for medical expenses from 7.5 percent to 10 percent. Individuals over age 65 would be able to claim the itemized deduction for medical expenses at 7.5 percent of adjusted gross income through 2016.
- **Higher Payroll Taxes for High Income Earners.** The hospital insurance tax rate will be increased 0.9 percentage points for wages over \$200,000 for individuals and \$250,000 for those filing jointly.

#### ***Effective 2014***

- **Employer Coverage Mandates.** Employers with 50 or more employees who do not offer employee health coverage will pay \$2,000 annually for each full-time employee, excluding the first 30 full-time employees. The penalty is increased to \$3,000 for any full-time employee receiving a federal tax credit for coverage, because his or her employer health coverage is considered "unaffordable." Coverage is considered "unaffordable" where the employee contributes more than 9.8 percent of his or her income, or the employer contributes less than 60 percent of the actuarial value of the plan.
- **Insurance Exchanges.** Exchanges are created at the state level starting in 2014, where individuals and small employers can shop for health coverage. Initially, the exchanges would be available to individuals and small groups (less than 100 employees), unless the state opts to cover only groups with up to 50 employees. Starting in 2017, states could open the exchanges to larger groups.

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## COBRA Subsidy Program Extended - Again

Congress has extended for a second time the COBRA subsidy eligibility period under The American Recovery and Reinvestment Act of 2009 (ARRA). Signed March 2, the Temporary Extension Act (TEA) extends ARRA an additional 30 days to March 31, 2010. It also makes the 65 percent subsidy available to eligible individuals who first experience a reduction in hours followed by an involuntary termination. Previously individuals who had their hours reduced and were later involuntarily terminated were not eligible for the subsidy.

If an individual is involuntarily terminated during March 2010, the employer will now need to determine whether their hours were reduced all the way back to September 2008 and whether they were offered COBRA at that time. If the individual did not elect COBRA after their original reduction in hours, they will be given another option to elect COBRA as of their involuntary termination date, if they are eligible for the subsidy; any gap in coverage would be disregarded for pre-existing conditions and no catch-up premiums would be required.

### Summary of new provision:

- If an individual's COBRA qualifying event is an involuntary termination of employment during March 2010, normal COBRA procedures will apply.
- If an individual had a reduction in hours later followed by an involuntary termination and the individual elected COBRA immediately following the reduction in hours, no additional COBRA election period is required.
- If an individual had a reduction in hours and did not elect COBRA (or elected coverage but later dropped it) and is involuntarily terminated between March 2 and March 31, 2010, the involuntary termination is considered a new "qualifying event" and will trigger an additional round of COBRA notices for employers (or their administrators). However, irrespective of the new qualifying event, the maximum period of COBRA coverage (usually 18 months)

will be applied from the original the reduction of hours date, not upon involuntary termination.

As an example, an individual has a reduction in hours on September 30, 2009, triggering COBRA eligibility on October 1, 2009. She fails to elect COBRA within the required time-lines, and is later involuntarily terminated on March 10, 2010. In this example, March 10th is deemed to be a new qualifying event, triggering a new round of COBRA eligibility. However, the employee's general COBRA eligibility period will have commenced on and date back to October 1, 2009.

### Next Steps

1. Employers will need to comply with these changes and notify effected individuals immediately.
2. Employers should keep track of individuals who are eligible for COBRA due to a reduction in hours so that appropriate notices can be delivered if those individuals are later involuntarily terminated during March 2010.
3. Employers should continue to track these employees because it's highly likely the COBRA subsidy will be extended again.



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- **Wellness Programs.** Employers can offer larger rewards, up to 30% of the cost of coverage, to employees for participation in a wellness program or for meeting certain health-related goals.
- **Individual Tax Credits.** Credits are available for people with incomes up to 400 percent of the poverty level for insurance purchased through an exchange.
- **Health Plan Changes.**
  - 1) Insurers cannot refuse to issue coverage on any individual due to pre-existing conditions.
  - 2) Higher rates cannot be charged to any individual based on health status, gender or other demographic factors.

3) Coverage cannot be non-renewed or dropped because an individual participates in a clinical trial.

### Effective 2018

- **High Value Plan Excise Tax.** A nondeductible excise tax of 40 percent is imposed on any health insurance plan with combined annual employer/employee premiums exceeding \$10,200 for individual coverage and \$27,500 for family coverage. The tax would only apply to premiums in excess of the threshold.



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## Do You Really Need Full Replacement Insurance on Your Current Building?

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The owners of a new company found a building on the market for an affordable price, so they bought it. Built in the 1940's to manufacture aircraft for the war effort, the metal structure had a large open space. The company occupying this space was in the software development business and the building was much larger than it needed, but the price made it seem like a sensible move. However, the owners got a surprise from their insurance agent about property coverage. Insurance companies base limits of insurance on the cost of replacing a building exactly as it was before the loss. The cost of reconstructing this old building was much higher than both its purchase price and that of other suitable properties. The company did not need that much insurance, and paying the higher premium for it would have been wasteful, so the owners asked the agent for alternatives. What if, they asked, we don't rebuild our building as it was?

After a fire or some other catastrophe destroys a building, its owners may decide not to rebuild or replace with a similar structure for a number of reasons.

- As was the case with the software company, the current building's design may be impractical. The company bought the building because of a good price, not because of its large open space. A software developer ordinarily does not need that much space; if it were to rebuild, it would almost certainly choose a smaller building with a different layout. Also, very old buildings often include materials that builders do not commonly use today, such as plaster and lathe. Reconstruction with these materials is expensive and often unnecessary for the continued operation of the business.
- The company may decide to consolidate the operations of two locations into one. The second location may have

the capacity to absorb the first one's operations, and management may feel that it will gain efficiencies by consolidating.

- Depending on the building's age, it may not meet current building codes. The local government may require any new buildings to meet expensive new codes.

The standard business property insurance policy states that the insurance company will pay "actual cash value" -- the cost of replacing the property minus an amount for depreciation.

However, it offers the option of valuing a loss at replacement cost without deduction for depreciation. A business that chooses this option will need to purchase the amount of insurance equal to the cost of replacing the building "as is." The company will pay the difference between the actual cash value and the replacement cost only if the property owner actually rebuilds or replaces the property, and then only if he does so as soon as reasonably possible after the loss. The policy also provides a small amount of additional insurance (typically the lesser of five percent of the insurance on the building or \$10,000) to cover the increased cost of construction

resulting from changes in building codes.

Businesses like the software company, who do not need an exact replacement of their current buildings, should ask their agent about adding a "functional building valuation" endorsement to their policies. It establishes a limit of insurance somewhere between actual cash value and full replacement cost and allows the property owner to replace the building with one that fulfills the same function as the old one at a lesser cost. The discussion with the agent should also include increased "ordinance or law" coverage to provide additional insurance for increased costs from new building codes. With the right attention to detail, a business can get the property insurance it needs without having to waste money on unnecessary coverage.



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