



“Navigating Uncharted Waters”

Examining the impact of healthcare reform

By Edward D. Smith, CIC

Late last week, members of the House of Representatives voted 220-207 for final approval of H.R. 4872, the Reconciliation Act of 2010. By the end of this coming week, the President will sign this bill as he did its sister bill, H.R. 3590, the Patient Protection and Affordable Care Act (PPACA). Some states are going to court to try to block implementation of the PPACA, and some Congressmen have released statements saying they want to pass legislation to repeal it. To any objective observer, the odds for either of these two initiatives being successful are long. Amid all the politics and rhetoric, it would appear the time for preparation is upon us. Long before either of these two bills reached the President’s desk, petitions encouraging their passage and their repeal were being circulated. Regardless of the petition to which you would lend your name, we must begin to address the overwhelming certainty that we are now operating in a new environment as it relates to Health Insurance coverage. The intent of this article (and those that follow it) will be to offer insight on how we, as individuals, families, & business owners, prepare to navigate this new environment. The data presented will be factual with sources conspicuously cited at the end of the article. Rather than spend time debating whether the PPACA will achieve any of its objectives, we would rather make an attempt to unpack how it will affect us. That exercise alone offers ample challenge all by itself without trying to judge the bill’s “success”, however it might be defined.

Speaking of that challenge, please don’t mistake my urgency for us to begin to build our knowledge of the PPACA as an indication of any certainty surrounding its provisions. Though you might think a 2,400 page bill would leave little to the imagination that is not the case. The PPACA is chock full of broad and general outlines and several of the government agencies that will add implementation guidelines and standards aren’t even fully staffed as of this writing. Like all landmark legislation before it, the PPACA will be defined and “massaged” for decades to come by elected officials, federal and state employees, and perhaps even courts. While much of the overall intent of the bill is clearly stated, the details (where the devil lies) offer plenty of ambiguity. In many respects, lawmakers have taken a “spaghetti approach” toward achieving their reform goals; “throw everything against the wall, and see what sticks.” We now have a platter full of noodles, some far less appetizing than others to be sure. While the long-term



effectiveness of this legislation will most likely be determined by how the dish is “seasoned” in the coming years, let us start now inspecting each noodle.

It is said that the best place to begin is at the beginning. From my perspective, that counsels us to consider this new environment in chronological order; that is, what changes wrought by this bill will impact us the soonest. Provisions not due to be implemented for three years, four years, or longer are also those most susceptible to modification. For the scope of this article, we will just consider the PPACA requirements between now and the end of 2011. Though the most substantive and significant change mandated by the bill occur in 2014 and beyond, the designers of this legislation have inserted what administration officials call “early deliverables.”

The following list includes provisions of the bills that are required to be implemented within 6 months of the effective date of the Act or on January 1, 2011:

- General Insurance Market Reform
 - Individual / Family Insurance plans are required to provide coverage to any individual who requests insurance and restricts rescissions of health plan coverage in all insurance markets except where fraud or intentional misrepresentation occur.
 - Includes a prohibition on pre-existing condition restrictions in the individual and small group health care market. The provision is effective immediately for children, in 2014 for everyone.
 - First-dollar coverage must be available for preventive care, which at a minimum includes immunizations and screenings for infants and children.
 - Self-insured and fully-insured insurance plans that offer dependent coverage must now do so for children up to age 26 unless the child is eligible for coverage through a job.
 - Health plans are prohibited from establishing annual and lifetime dollar limits on essential benefits. The Department of Health and Human Services (HHS) will issue guidance on what is considered an essential benefit.
 - Health Insurers must begin to report how much they spend on medical care versus administrative costs, a step that will later be followed by tighter government review of premium increases.

- Employer Impact
 - The PPACA caps Flexible Spending Account contributions at \$2,500 / year and excludes over the counter medications (without a doctor’s prescription) as



reimbursable expenses under FSAs, HRAs, MSAs, and HSAs. Additionally, penalties are increased to 20% for non-medical distributions (currently 10%).

- A sliding tax credit is available to small businesses with fewer than 25 employees and average annual wages of less than \$50,000 which contribute at least 50% toward qualifying health insurance premiums for their employees. Tax credits may be up to 35% of applicable premiums, beginning with tax years on or after January 2011.

➤ Uninsured

- People with a medical condition that has left them uninsurable may be eligible for a federally subsidized insurance program that is to be established within 90 days. The bill appropriates \$5 billion for this purpose.

➤ Medicare

- The approximately 4 million Medicare beneficiaries that hit the so-called “doughnut hole” in the program’s drug plan will get a \$250 rebate this year. Currently, when enrollees pass \$2,700 in costs, they lose coverage until they reach \$6,154.
- Next year, the cost of brand name drugs in the coverage gap will go down by 50%.
- Preventative care, such as some types of cancer screening, will be free of co-payments or deductibles starting this year.

The provisions above are just the beginning. Various other components of the bills must also be implemented by January 2011, including requirements for federal studies and for states to provide information portals for their residents to obtain uniform information on sources of affordable coverage. Obviously, much more is packed into the new healthcare environment (as it is envisioned by these two bills) that will be implemented in the coming years. Examples include state operated insurance exchanges, taxes imposed on high cost, “Cadillac” employer provided policies, government subsidies for low income earners, and individual and employer mandates to purchase coverage or pay a penalty.

We don’t know yet how our own premiums will be affected much less the impact to the shocking upward trajectory of our country’s collective health care expenditures. As previously mentioned, many of the new laws require federal agencies to issue more detailed regulations



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that will guide implementation. In our next installment in this series, we examine some of the more substantive changes required by this legislation as we continue to help you navigate this new Healthcare environment. In the meantime, stay healthy and, as always, we welcome your questions or suggestions.



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Sources: National Association of Health Underwriters (www.nahu.org), Society for Human Resource Management (www.shrm.org), InfiniSource (<http://www.infinisource.net/>), Independent Insurance Agents & Brokers of America (www.iiaba.com)