

The effects of

health care reform



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For more information on this topic, go to www.dentaleconomics.com and search using the following key words: *health care reform, grandfathered status, plan benefits, Medicare tax increase, health exchanges.*

Health care reform (HCR) began in 2010. Its implementation will require a joint effort of the Internal Revenue Service (IRS), Department of Labor (DOL), Health and Human Services (HHS), and the states (the Agencies). The IRS has stated that the Agencies will not only get HCR properly implemented, but also implemented *on time*. Some provisions are now in effect, and others will become effective in later years. As such, if you provide health insurance for you, your family, and your staff, you and your advisors need to understand what's in effect now as well as prepare for future provisions. You should also monitor any aspect of HCR that may be postponed.

Provisions effective now

Grandfathered status — If your health plan was in effect on March 23, 2010, it qualifies for what is called grandfathered status. Grandfathered status allows your health

plan to continue to provide you, the business owner, with favorable discrimination. Favorable discrimination in your health plan means that your practice can pay 100% of the health insurance premiums for you and your family, and a lesser percentage for your full-time staff — e.g., 50% or 80% of an individual's premium costs.

However, your health plan will lose its grandfathered status if any of the following events occur:

- *A significant elimination or reduction of benefits;*
- *A raise in co-insurance charges;*
- *A significant raise in copayment charges;*
- *A significant raise in deductibles;*
- *A significant decline in employer contributions; or*
- *Increasing or decreasing the annual limit on what the insurer pays.*

If you changed insurance companies between June 14 and November 14, 2010, your grandfather status was lost.

Any health plan materials provided to participants describing plan benefits must include a statement that the health plan is grandfathered under HCR, and provide contact information for participant questions and complaints. The regulations provide a model notice. You must also maintain records that document that your health plan qualifies as a grandfathered plan. These records must be

submitted to any new insurance carrier to assess whether grandfathered status is maintained or lost.

If your health plan was not in effect on March 23, 2010 — or if it loses its grandfathered status — it is not a grandfathered plan. For nongrandfathered plans, the nondiscrimination rules of Internal Revenue Code (IRC) Section 105(h) (the nondiscrimination rules) will apply. This means no discrimination in premium cost for you, the business owner. In the past, these rules applied only to self-insured plans.

The nondiscrimination rules require that at least 70% of all full-time employees be covered and that all covered employees be treated the same. If the nondiscrimination rules are violated when they become effective, your practice will be subject to a \$100 per day excise fee for every employee who does not pay the same coverage cost and receive the same benefits as you. Fortunately, the application of the nondiscrimination rules to nongrandfathered plans has been postponed for now.

Small business tax credit

If your practice has 24 or fewer full-time employees — and you pay average annual wages of less than \$50,000 and you pay at least 50% of the employees' health insurance premium costs — your practice qualifies for the Small Business Tax Credit. For tax years 2010 through 2013, the credit is 35% of the employer premium contributions.

For 2014, the credit will be 50%, and then it will be phased out over the next two years.

While the IRS is rather excited about this credit because it thinks it is giving small businesses a substantial benefit, the information required to obtain it is administratively burdensome. Accountants have told me that it will cost roughly \$800 to \$1,000 on their part to get your practice a \$200 to \$300 credit.

Simple cafeteria plan

If your practice operates as a C corporation, a simple cafeteria plan designed very similar to a safe harbor 401(k) plan allows you to meet safe harbor contributions to avoid application of the nondiscrimination rules. The safe harbors are employer contributions of 2% of the staff members' yearly compensation, or double the match of staff contributions up to 6% of staff members' yearly compensation. All employees with at least 1,000 hours of service for the preceding year are eligible to participate. A simple cafeteria plan also avoids the cafeteria plan requirement that limits benefits for key employees to 25%.

Provisions effective in the future

Medicare Tax Increase — For tax years after December 31, 2012, an additional 0.9% Medicare contribution tax will be assessed on wages over \$200,000 for individuals, \$250,000 for married couples filing a joint return, and on investment income.

W-2 reporting requirement

Beginning in 2014, your practice will be required to include the value of employer-sponsored health insurance coverage on W-2s. However, the premiums are not included in income. Prescription plans, as well as dental and vision, are included in the reporting unless they are separate plans. Health savings accounts are not included. This reporting requirement is complicated and, hopefully, will be postponed.

State health care exchanges

Beginning in 2014, the federal government will allocate funds to individual states to create insurance exchanges (the Exchanges) as a marketplace for individuals and small businesses with fewer than 100 employees to purchase private health insurance. Right now, we know very little about the Exchanges. We do know that states may limit the Exchanges to employers with fewer than 50 employees through 2016.

The Agencies are working on implementing the Exchanges, and we have no idea how well this will be done or whether health care quality and availability will vary from state to state. One concern is that health insurers may leave the small business market so they do not have to compete with the states.

Review health insurance plan now

Now is a good time to review the health insurance that your practice currently provides and to make choices in light of costs and benefits. If your practice had its health coverage in effect before March 23, 2010, maintaining grandfathered status is important.

HCR is a reality and you must deal with the cost and administrative compliance. However, the quality of health coverage and availability are unknown at this time. Watch closely and wait! We will report back to you when we know more. Until then, stay compliant, evaluate costs, and encourage your dental association to convince health insurance carriers to remain in the small business market.

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