

PS&Fs Notes

Healthcare Reform

EMPLOYEE BENEFITS SEMINAR HEALTHCARE REFORM May 5, 2010 PARKER | SMITH | FECK

PS&Fs Notes

Greg Collins


President & CEO
Parker, Smith & Feek

EMPLOYEE BENEFITS SEMINAR HEALTHCARE REFORM May 5, 2010 PARKER | SMITH | FECK

Health Care Reform: Implications for Employers

Presented by:

Melanie K. Curtice
Stoel Rives LLP
May 5, 2010



3 Stoel Rives LLP • www.stoel.com

Health Care Reform Legislation

- Patient Protection and Affordable Care Act (PPACA)
Pub. L. No. 111-148 (Senate bill, H.R. 3590)
- PPACA amended by Health Care and Education Reconciliation Act (HCERA)
Pub. L. No. 111-152 (House reconciliation bill, H.R. 4872)
- PPACA as amended by HCERA is referred to in this presentation as "PPACA"



Effective Dates

- Variety of Effective Dates
 - Immediately
 - When Regulations are Issued
 - June 2010
 - October 2010
 - January 2011
 - March 2012
 - January 2013
 - January 2014
 - January 2018



Immediate Changes

- Coverage for dependent children is tax-free through the taxable year in which the child turns age 26
 - *Implications for Employers:*
 - IRS Notice 2010-38
 - Effective March 30, 2010
 - Important to distinguish mandate to offer coverage to older children
 - Imputing income and cafeteria plan elections
 - Health FSAs
 - FICA/FUTA
 - Adjust payroll practices
 - Notify employees
 - Options for making changes now



As Soon as Regulations are Issued

- Large employers subject to the Fair Labor Standards Act (200+ employees) must automatically enroll new full-time employees into health plans offered by the employer and automatically continue plan enrollment for current employees
 - Preempts state wage and hour laws
 - *Implications for Employers:*
 - Prepare for automatic enrollment
 - Employees must receive notice and an opportunity opt out
 - Think through issues such as waiting periods and seasonal employees



7

Stoel Rives LLP • www.stoel.com

Effective June 20, 2010

- Temporary reinsurance for early retirees
 - Reimburse plans for certain retiree coverage for retirees between 55 and 65 who are not Medicare-eligible
 - Pays 80% of claims between \$15,000 and \$90,000
 - Ends in 2014 or when \$5B appropriated has been spent
 - White House Fact Sheet



8

Stoel Rives LLP • www.stoel.com

Effective June 20, 2010 - cont'd

- *Implications for Employers:*
 - Be ready to apply – according to White House Fact Sheet, the application will be available in June
 - Identify procedures used by plan to generate cost savings for chronic conditions
 - Estimate number of retirees and dependents with claim amounts falling within above limits
 - Work with consultants and TPAs to come up with plan to capture data and apply



9

Stoel Rives LLP • www.stoel.com

Effective Plan Years Beginning October 1, 2010 or Later

- For calendar years plans, effective January 1, 2011
- Different requirements for new plans vs. “grandfathered plans”
 - Grandfathered plans = group health plans in existence as of March 2010, until such plans lose grandfathered status
 - New plans = plans that are not grandfathered plans
 - No guidance on how a grandfathered plan loses its grandfathered status
 - But, can enroll new hires and their family members as well as new family members and not lose grandfathered status
 - Not clear whether significant modifications of coverage under a plan design will modify grandfathered status



10

Stoel Rives LLP • www.stoel.com

Collectively Bargained Plans; Special Effective Date

- For health coverage under CBAs ratified before March 23, 2010, PPACA’s coverage and cost-sharing mandates will apply
 - On the date of the last CBA relating to the coverage
 - Postponement, not permanent exemption from the new standards



11

Stoel Rives LLP • www.stoel.com

Effective Plan Years Beginning October 1, 2010 or Later - cont’d

- For both new and grandfathered plans:
 - No annual or lifetime dollar limits on “essential benefits”
 - Secretary may allow restricted annual limits before 1/1/2014
 - Annual dollar limits must comply with regulations (to be issued by the end of June 2010)
 - *Implications for Employers:*
 - Review plans for overall lifetime and annual limits
 - Review regulations on annual limits issued in June 2010
 - Amend plans for the 2011 plan year
 - “Mini-med” plans
 - Limits on number of visits or treatments?



12

Stoel Rives LLP • www.stoel.com

Effective Plan Years Beginning October 1, 2010 or Later - cont'd

- For both new and grandfathered plans:
 - Offer coverage to dependents until age 26 (for grandfathered plans, only if child has no access to employer-sponsored coverage)
 - Regardless of student or marital status
 - No requirement to cover the children or spouses of such dependents
 - No preexisting condition exclusions for children under 19
 - General ban not effective until 2014
 - *Implications for Employers:*
 - Amend plans for the 2011 plan year to allow dependents up until age 26 and to remove preexisting condition exclusions for children under age 19
 - Charge for the coverage?
 - Continue preexisting condition exclusions for covered individuals 19 and older



13

Stoel Rives LLP • www.stoel.com

Effective Plan Years Beginning October 1, 2010 or Later - cont'd

- Effective for **NEW PLANS ONLY**
 - Must provide preventive services and immunizations without cost-sharing (including certain immunizations and women's preventive care)
 - Must meet new internal and external review process standards
 - Insured plans must meet nondiscrimination requirements (formerly only applicable to self-funded health plans)
 - If plan requires or provides for designation of primary care physician (PCP), plan must allow designation of a PCP or pediatrician
 - Cannot require preauthorization or referral for OB/GYN services
 - Emergency services coverage cannot require preauthorization
 - Can be limited to in-network
 - Can impose higher cost-sharing for out-of-network



14

Stoel Rives LLP • www.stoel.com

Effective January 1, 2011

- Employers must report the aggregate cost of health coverage on employee's W-2
 - Appears to be effective for the 2011 tax year, which means reporting on W-2 issued in early 2012 for 2011 health coverage
 - This does not mean the value of the health coverage is taxable as income
 - Aggregate costs will be determined in a manner similar to the way COBRA premiums are calculated
 - *Implications for Employers:*
 - 2011 W-2 forms will likely have to include health coverage
 - Comply with any issued regulations regarding how to calculate the value of self-insured coverage (COBRA premium calculation)



15

Stoel Rives LLP • www.stoel.com

Effective January 1, 2011 - cont'd

- No reimbursements for nonprescription over-the-counter drugs through HSAs, Health FSAs, or HRAs
- *Implications for Employers:*
 - Amend plans
 - Notify employees
- Tax on ineligible HSA distributions will be 20%
- Previous tax was 10%
- CLASS program
- Medical loss ratio requirements



16

Stoel Rives LLP • www.stoel.com

2012 – Generally, March 23, 2012 (24 months post-enactment)

- Applies to all plans (insured, self-insured, grandfathered)
- Must provide health plan participants with a summary of benefits
 - Cannot be more than four pages, minimum 12-point font
 - Must be “culturally and linguistically appropriate”
 - Must comply with regulations to be issued by March 2011
 - *Implications for Employers:*
 - Wait for March 2011 regulations



17

Stoel Rives LLP • www.stoel.com

2012

- By March 23, 2012, must provide 60 days advance notice prior to changes
 - *Implications for Employers:*
 - Review process for plan changes to ensure ability to comply with the 60 days notice requirement
- By March 23, 2012, quality of care reporting
- For policy or plan years ending after September 30, 2012, comparative effectiveness/patient-centered outcomes fee



18

Stoel Rives LLP • www.stoel.com

Effective January 1, 2013

- Tax increases for high-income taxpayers
 - Hospital insurance tax on amounts over \$200,000 will increase from 1.45% to 2.35% (employee portion only)
 - 3.8% tax on unearned income for high-income taxpayers
 - No tax deduction for employers providing Medicare Part D retiree drug subsidy payments
- Health flexible spending accounts (FSAs) limited to \$2,500 annually
 - *Implications for Employers:*
 - Amend plan prior to 2013 plan year
 - Notify employees
- Change in Medicare retiree drug subsidy tax treatment takes effect



19

Stoel Rives LLP • www.stoel.com

March 1, 2013

- Requirement to provide written notice informing employees about the "Exchange," and potential eligibility for premium credits if the employer's share of costs is less than 60% of the allowed total cost of benefits



20

Stoel Rives LLP • www.stoel.com

Effective January 1, 2014

- Coverage and cost-sharing standards for all plans (outside of Exchanges)
 - No preexisting condition exclusions for anyone (previously only prohibited for children under 19)
 - No annual dollar limits (previously annual dollar limits were allowed in accordance with regulations)
 - Must offer coverage to dependents up to age 26, even if they have access to employer sponsored-coverage
 - Waiting periods limited to 90 days
 - *Implications for Employers:*
 - Review and amend plans



21

Stoel Rives LLP • www.stoel.com

Effective January 1, 2014 - cont'd

- Coverage and cost-sharing standards for non-grandfathered plans
 - Clinical trial coverage
 - Annual cost-sharing and deductible requirements
 - Provider nondiscrimination
 - New wellness rules



22

Stoel Rives LLP • www.stoel.com

Effective January 1, 2014 - cont'd

- Employers must report the value and scope of employee health coverage to federal government
 - Reporting form is to be developed
 - Implications for Employers:
 - Wait for reporting form to be released



23

Stoel Rives LLP • www.stoel.com

Effective January 1, 2014 - cont'd

- Shared responsibility penalties
 - Penalties for large employers (50+ employees) with at least one full-time employee that receives a premium tax credit
 - Full-time employees = those work 30 hours or more each week, measured monthly
 - Employers that offer coverage but still have a full-time employee receive a premium tax credit pay *the lesser of*:
 - \$2,000 per full-time employee
 - \$3,000 per full-time employee receiving a premium tax credit
 - Employers that do not offer coverage and have a full-time employee receive a premium tax credit pay:
 - \$2,000 per full-time employee (excluding the first 30)



24

Stoel Rives LLP • www.stoel.com

Effective January 1, 2014 - cont'd

- Free choice vouchers
 - Employers must offer low-income employees a “free-choice” voucher to defray the cost of purchasing coverage through state exchanges
 - Only applies to low-income employees (400% of poverty level).
 - The voucher is equivalent to the value that the employer would have paid for the employee’s health coverage through the employer’s plan
 - Implications for Employers:
 - Wait for regulations to clarify how an employer would determine which employees qualify
 - No added costs beyond the administrative burden



25

Stoel Rives LLP • www.stoel.com

Effective January 1, 2014 - cont'd

- Health insurance exchanges
 - Phase-in
 - 2014 – 100 or fewer employees; states can limit
 - 2015
 - 2016 – 100 or fewer employees
 - 2017 – 100 or fewer employees; states can expand



26

Stoel Rives LLP • www.stoel.com

Effective January 1, 2018

- Tax on “Cadillac” plans
 - Applies to plans valued at more than \$10,200 for individual coverage and \$27,500 for family coverage
 - 40% tax on values exceeding limits above
 - Indexed to consumer price index (not health care costs)
 - Separate vision and dental insurance policies not included in the value of the health plans
 - Implications for Employers:
 - Begin monitoring value of health coverage



27

Stoel Rives LLP • www.stoel.com

Helpful Websites

- <http://www.dol.gov/ebsa/healthreform>
- <http://www.healthreform.gov>
- <http://www.hhs.gov/ociio>
- <http://www.irs.gov>

28 *Steel-Rives LLP • www.steel.com*



PS&Fs Notes

Kevin Norris

Benefits Department Manager
Parker, Smith & Feek

EMPLOYEE BENEFITS SEMINAR HEALTHCARE REFORM May 5, 2010 PARKER | SMITH | FEEK

PS&Fs Notes

Assessing the Impact

- Financial: What is this going to cost?
- Plan Design: What do we need to change?
- Plan Funding: Should we self-insure?
- Contribution Strategies: Base Buy-up Surcharges.
- What if we drop our coverage?
- What else can we do?

EMPLOYEE BENEFITS SEMINAR HEALTHCARE REFORM May 5, 2010 PARKER | SMITH | FEEK

Communicating Healthcare Reform

What do you say to your employees?

Presented by
Heidi tenBroek
Communication Consultant

May 5, 2010



Agenda

- Context
- Communication Timeline
- Key Messages
- Audiences
- Best Practice Communication
- Don't Forget



32 May 24, 2010



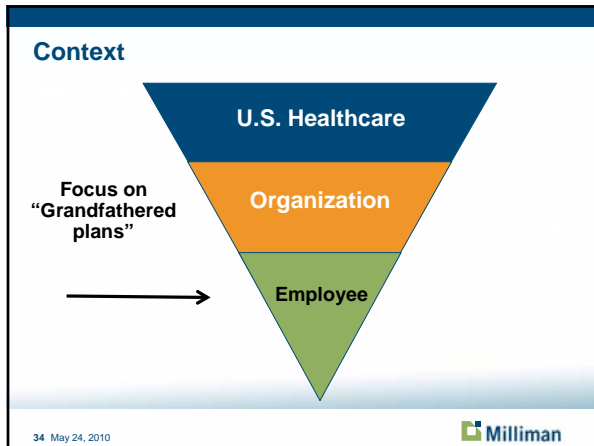
Context

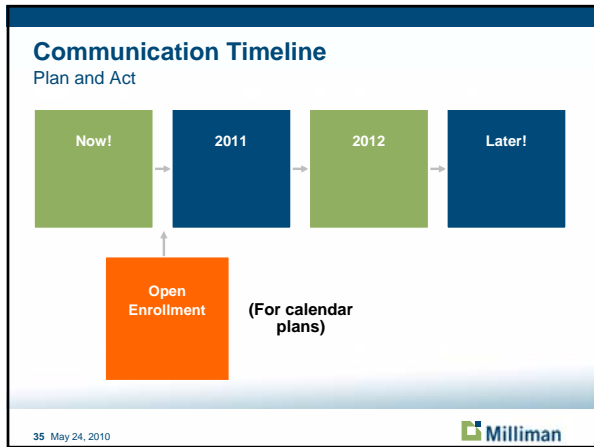
- Emotional
- Personal
- Confusing



33 May 24, 2010










Communication Timeline
Plan and Act

January 1, 2011 →

For calendar year plans:

- No lifetime limits
- Annual limits comply with HHS guidance
- No preexisting condition exclusions (younger than age 19)
- OTC drugs must have a Rx for FSA, HRA, HSA reimbursements
- Report healthcare value on W-2


37 May 24, 2010 

Communication Timeline
Plan and Act

January 1, 2011 →

What does this mean for open enrollment?

- Clarify dependent eligibility
- Automatic enrollment
- Revised appeals processes
- Media involvement will mean more questions from employees
- Must communicate to employees


38 May 24, 2010 

Communication Timeline
Plan and Act

March 2012 →

By March 2012:

- 4-page summary of benefits (in accordance with regulations)
- 60-day notice before plan changes (distributed by Nov. 1 if effective Jan. 1)

39 May 24, 2010 

Communication Timeline

Plan and Act

Initial Enrollment, then Annually

Distribute 4-page summary of benefits:

- To all applicants, policyholders and enrollees
- From:
 - Employer if self-insured
 - Insurer if fully insured
- Penalties are significant

40 May 24, 2010



Key Messages Must Address These Questions

Can I get coverage through the exchange?

Will my healthcare coverage change?

Can I add my dependent? How? When?

41 May 24, 2010



Key Messages Must Address These Questions

Can I use the subsidy to pay for my coverage?

What happens if I lose my job?

Will you stop offering healthcare?

42 May 24, 2010



Audiences



- Employees
- Spouses
- Retirees
- Leadership
- Labor relations
- Union representatives

43 May 24, 2010 

Best Practice Communication

- ✓ Communicate now
- ✓ Don't overpromise
- ✓ Don't play the blame game
- ✓ Capture employees' questions and fold the answers into future communications
- ✓ Include the spouses (who may be the ones making decisions)
- ✓ Make it clear that plans subject to collective bargaining agreements may have a delayed effective date
- ✓ Start planning now!

44 May 24, 2010 

Don't Forget

- SMMs
- SPDs
- New hire guide/brochures
- Recruitment materials
- Company website
- Enrollment website

Update your communications

45 May 24, 2010 

In Summary

- Start now
- Create your own communication plan
- Address the questions and concerns head on
- Avoid the potential pitfalls



46 May 24, 2010



Questions?

47 May 24, 2010



PS&Fs Notes

Q & A

EMPLOYEE BENEFITS SEMINAR HEALTHCARE REFORM May 5, 2010

PARKER | SMITH | FEEK

Parker, Smith & Feek

www.psfinc.com

Stoel Rives, LLP

www.stoel.com

Milliman

www.milliman.com
