What the New Health Reform Law Means to You and to Our Country

By Sandy Botkin, CPA, *Esq.*

Let me note at the outset that I do believe that we need health reform. I also liked part of the new law (especially with waiving pre-existing conditions and eliminated lifetime benefit caps), but I also find parts of the new law horrendous. Thus, I wanted to give you my take on some of the more salient parts of this new law so you can see how it applies to you.

I have also given my opinion of the tax and economic consequences of some of the more salient provisions. This may be the single most important piece of social legislation passed in twenty years. Read over my summary, it could really make a difference to you financially. Surprisingly, I have NOT seen any media noting some of my economic objections. Everyone seems to be focusing on the cost of the law and not on the economic and tax implications, which you will see here.

Those single folks who make over $200K of Adjusted Gross Income (AGI) or married filing jointly who make over $250K have to pay:

1. 0.9 % more for Medicare starting in 2013.
2. 3.8% Medicare charge on all interest, dividends, rents, royalties, etc starting in 2013. These items were previously exempt from Medicare in 2013.
3. Companies with 50 or more full time employees MUST provide employer provided health insurance OR pay an additional tax.

   Sandy's elaboration: This requirement does not take profitability into account. Thus, this could put companies on the edge (profit wise) in danger. In addition, it would probably accentuate the sucking sound of jobs to India, China, etc. Finally, this gives a major economic advantage to those companies who have less than 50 employees. I have already spoken to some employers, who have just over fifty employees, which plan to fire some of their employees in order to get under the 50 employee rule. This can be an economic disaster in the making. Moreover, many companies will try to hire part-time help whenever possible because of this law, which will cause the US to lose many full-time jobs. You heard it from me first! This requirement comes into play for companies starting after 2013.
4. Companies with 25 or fewer employees, and whose average annual salaries are under $50,000, will get a 35% tax credit which is a subsidy for the premiums. This Credit will rise to 50% in 2014. Moreover, companies with less than 10 full time employees and whose average salaries are under $20,000 will get a 100% credit. Sole Proprietor or over 2% shareholders salaries are not included.
5. Employers would be liable for penalties if they have waiting period restrictions and would be liable for more penalties if they don't file information returns showing name of person covered, amount of premium, and amount of coverage. Accountants will make out like bandits due to the increased paperwork.
6. If employers provide more than the "essential minimum coverage", and the plan is too good (which requires premiums over what is allowed by the government or more than 9.5% of household income), the employers might have a non-qualifying plan (with penalties) and the insurer might have to pay a whopping 40% excise tax if the premiums are above certain limits set by the government (which are $10,200 for individual policies and $27,500 for family policies beginning in 2018).

   Sandy's Elaboration: What this means is that if you want a really good insurance plan, both employers and insurers won't provide it. I don't understand why the government won't allow insurance companies to sell plans that exceed their basic minimum requirements without a stiff excise tax.
7. Current employer provided health insurance plans are grandfathered in and will be deemed to provide essential minimum coverage.
8. There will be state pools for small businesses where they can pool their resources in order to get supposedly better deals on Health Plans.
9. All individuals not covered by Medicaid, Medicare, or company qualified coverage are required to get health care coverage or will face penalties. However, there will be vouchers and/or tax credits for lower income and some middle class folks. Beginning in 2013, most companies must provide coverage as noted above.

Moreover , there will be no pre-existing conditions or lifetime benefit limits. There will also be lower costs for deductibles, co-insurance and out of pocket expenses for lower income individuals.

The fee for an uninsured individual under age 18 would be one-half of the fees for an adult. The total household penalty wouldn't exceed 300% of the per adult penalty ($2,085), nor exceed the national average annual premium for the “bronze level” health plan offered through the Insurance Exchange that year for the household size.

In the first few years beginning in 2013, the penalties are greatly reduced. If you don't enroll yourself and/or your dependents in 2013, you will pay a penalty of $95 per person. This penalty rises to $325 in 2014 and to $695 per person (subject to a maximum total household penalty of $2,085) in 2015 and thereafter subject to inflation.

In addition, if you provide your own insurance thought the health insurance exchange, you will get a yummy refundable tax credit if your adjusted gross income is between 100% of the federal poverty limit and up to 400% of the federal poverty limit. This tax credit is based on a sliding scale between your income and family members

Federal Poverty Line (2009)

Persons in family	**48 contiguous states and D.C.**	**Alaska**	**Hawaii**
1	$10,830	$13,530	$12,460
2	$14,570	$18,210	$16,760
3	$18,310	$22,890	$21,060
4	$22,050	$27,570	$25,360
5	$25,790	$32,250	$29,660
6	$29,530	$36,930	$33,960
7	$33,270	$41,610	$38,260
8	$37,010	$46,290	$42,560

The premium assistance credit won't be allowed to an individual whose household income exceeds 400% of the poverty line, see ¶202 . The following table shows the 2009 income levels that equal 400% of the poverty line:

Persons in family	**48 contiguous states and D.C.**	**Alaska**	**Hawaii**
1	$43,320	$54,120	$49,840
2	$58,280	$72,840	$67,040
3	$73,240	$91,560	$84,240
4	$88,200	$110,280	$101,440
5	$103,160	$129,000	$118,640
6	$118,120	$147,720	$135,840
7	$133,080	$166,440	$153,040
8	$148,040	$185,160	$170,240

Sandy's Observation: Thus, individuals whose household income (using 2009 amounts) exceeds the above-listed amounts (e.g., $43,320 for an individual or $88,200 for a family of four) won't be entitled to claim the premium assistance credit.

Sandy's elaboration: although there will be a penalty for not enrolling in the government plan for the first few years, it will be a small penalty. Thus, why would anyone enroll in the plan? Why not wait until you have a medical problem and then enroll. There will be no pre-existing conditions; thus, you can enroll any time even when you find out that you have a major ailment such as Cancer.

Moreover, the credit is refundable, which means that you can get more money back from the government than you paid in. Thus, if you paid in $3,000 in taxes but get a refundable credit of $4,000, you would not only get back all the $3,000 in taxes that you paid into the government but would also get a check for an extra $1,000!

10. Right now Flexible Spending Accounts can't be set up for more than 2% owners/stockholders. This will be liberalized to allow for small businesses to use FSAs. However, maximum deductions will be limited to $2,500 per year, per employee.
11. Domestic partners can't be covered as spouses unless you are a federal employee, and illegal aliens are not covered under this bill. Other exemptions are for those of "religious conscience" and for certain hardship cases. This area is unclear and will require some IRS regulations.
12. Employer provided health insurance can now cover dependent kids under age 26 (used to be between 21 and 23 depending on the plan and the state).
13. Health insurance will avoid all lifetime maximums and pre-existing conditions.
14. Patient protection act eliminates deduction for subsidies for employers who maintain a prescription drug plan for retirees eligible for Medicare. Thus, some retirees will have to pay more for their prescription drug coverage.
15. Right now you can deduct medical expenses that exceed 7.5% of your adjusted gross income. This number will rise to 10% of AGI on or after 2013 except for folks who are age 65. Those age 65 by that date will be subject to the older rule of 7.5% of AGI threshold.
16. There is an excise tax on medical devices that will make these items more expensive. However, normal stuff that you can buy over the counter such as eye glasses, contact lenses, and hearing aids won't be subject to the new excise tax.
17. Employer provided adoption assistance will be increased from $12,170 to $13,170 starting in 2010.
18. Congress and government workers covered under a government plan are exempt from this program. What does that tell you about the law?

Phase in schedule:

1. 90 days after enactment: people with no insurance will have access to high risk pools.
2. 180 days after enactment: prevents insurers from denying people who get sick and prevents insurers from barring children with pre-existing conditions. In addition, insurers can't have any lifetime caps on medical reimbursements. Finally, children under age 26, who are dependents, can stay on parent's policy
3. 2011: Requires insurers to spend 80% of premiums on medical services if a small group plan or for the individual market. Large group plans must spend 85% of premiums on medical services.
4. 2013: Increase in Medicare payroll tax by .9% on earned income if you have Adjusted Gross income (AGI) of $200,001 or more for single taxpayers and $250,001 or more for married taxpayers filing jointly. In addition, there will be a 3.8% Medicare tax on unearned incomes such as interest, dividends, rents, and royalties if your income is more than the limits noted here.
5. 2014: Provides subsidies in the form of credits for families earning up to 400% of the federal poverty level, which for family of four, would be up to $88,000 of AGI. In addition, most employers who have 50 or more full time employees must provide qualified coverage to their employees or face penalties. Finally, most individuals who do not have health insurance, must get coverage or face penalties.
6. 2018: There is an imposition of 40% excise tax on high end insurance policies. Thus, if you want a "Cadillac plan", you will pay a bundle for it.

   Sandy's elaboration: I just don't get the 40% excise tax. If I want to pay for a better plan, why can't I do that without the government charging me a huge excise tax? What's next? If I want a bigger house, car or fancier watch than the average person, should I have to pay a huge excise tax. This is a very strange development.

It is proposed that this Patient Care Bill will provide coverage to over 32,000,000 more people. However, with the same number of doctors, this will mean much longer waits and perhaps more costly coverage.

What I think will happen is that the government will try to curtail costs by limiting payments to doctors and hospitals. This will cause a number of doctors to not participate in this plan, which will reduce the number of doctors already available. In fact, there will be two tiers of coverage: one for folks who will pay the fees regardless of any insurance and one for the rest of us. We will have much longer waits for doctors or procedures. Remember where you heard all this.

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