



Helping you navigate the complexities of health care

**THE O'NEILL COMPANY**  
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*Bridging Financial Partnerships...  
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## Health Care Compass

### Bracing for Health Care Reform: Key Provisions for Employers

The landmark health reform legislation recently enacted brings new responsibilities for employers as early as this year, as well as future considerations for those offering company-sponsored health benefits.

The Patient Protection and Affordable Care Act (H.R. 3590), signed into law, enacts the most sweeping change in U.S. social policy in over a half century.

We have highlighted below a summary of some of the key provisions in the health reform legislation that will have the greatest impact to all employers, large or small, in the coming months and years.

#### ***What Employers Need to Know***

Below are some of the more significant provisions affecting employers with existing plans in the two-bill package. Additional requirements will apply to employer plans adopted after enactment. Although many of the provisions in the bill will not go into effect until 2014, and in one case 2018, some take effect the first plan year following six months after enactment. While six months following the date of enactment is October 1, 2010, for employers with calendar year plans the effective date will be January 1, 2011.

#### **Employer Mandates**

Employers who employ more than 200 employees must automatically enroll new full-time employees in coverage. Employers must also provide employees with an opportunity to opt-out of coverage. Clarification on the effective date of this provision is forthcoming.

#### **Effective 2011**

A health plan W-2 reporting requirement will be imposed, requiring employers to report the aggregate value of medical benefits, vision, dental and supplemental insurance coverage. It is expected that this requirement would apply to Forms W-2 for the year 2011 that are made available to employees in January 2012.

#### **Effective 2013**

Not later than March 1, 2013, employers will be required to give a notice to their employees that they may be eligible to participate in one of the state-based health-insurance Exchanges.

## Effective 2014

The Patient Protection and Affordable Care Act requires employers *with 50 or more employees* to offer coverage to their employees or pay a fine of \$2,000 per full-time employee, if even one employee obtains a federal subsidy to buy health coverage from one of the new state-based health-insurance exchanges.\* The first 30 employees are exempt from the calculation of the penalty.

The mandate also requires an employer who does provide coverage to pay either of the following: an "assessment" of \$3,000 for each employee who qualifies for subsidized coverage from an exchange either because the employer pays less than 60 percent of the full actuarial value of the coverage provided or because the employee's cost is greater than 9.8 percent of their adjusted gross income; or \$2,000 per full-time employee, whichever is less.

\* By 2014, the Act requires states to create health-insurance exchanges, which would offer four different levels of qualified health insurance plans. It also would mandate individuals at this time to purchase coverage and provide subsidies for certain individuals to do so.

## Mandates Impacting Employer-Sponsored Plans

### Effective 2010

Employer-provided group health plans will be required to cover adult children up to age 26, unless they are eligible under another group plan (for years before 2014). This coverage will be nontaxable. Also, the group health plan will be required to eliminate pre-existing condition exclusions for children under age 19.

Employer health plans will be prohibited from rescinding or cancelling health coverage, except in cases of fraud.

Employer-provided coverage will be required to eliminate lifetime limits on essential benefits coverage and may only place "restricted" annual limits on essential benefits coverage until 2014, when annual limits are prohibited.

### Effective 2011

Over-the-counter medicines will no longer be eligible for purchase with funds from Flexible Spending Accounts, Health Savings Accounts or Health Reimbursement Arrangements, unless a prescription is provided.

The penalty for use of funds from a Health Savings Account for non-qualified medical expenses will increase, doubling the additional tax on these types of withdrawals from 10 percent to 20 percent for anyone under the age of 65.

### Effective 2013

A statutory cap of \$2,500 will be placed on the amount of funds an employee can save in a Flexible Spending Account. The limit will be adjusted annually in accordance with the U.S. Consumer Price Index.

## Effective 2014

The employer's group health plan will be required to eliminate the pre-existing condition exclusions for adults. The plans also have to eliminate annual limits on essential benefits coverage for adults.

Employers will be required to eliminate waiting periods beyond 90 days when enrolling employees in a group health plan.

## Tax Provisions

### Effective 2010

Small business tax credit: Businesses with fewer than 25 employees and average wages of less than \$50,000 could qualify for a tax credit of up to 35 percent of the cost of employees' premiums.

### Effective 2013

Individuals with adjusted modified gross income over \$200,000, and joint filers with over \$250,000, will be required to pay a Medicare surtax of 3.8 percent on investment and other passive income, including rents, interest, dividends, royalties and capital gains.

In addition, these high-income earners will have to pay a Medicare payroll tax of 2.35 percent — an increase of 0.9 percent — on the portion of their wages in excess of the above noted thresholds. (Note: These are individual mandates that affect employees; they do not employers.)

An employer's deduction for retiree prescription drug coverage is disallowed to the extent the employer receives the Retiree Drug Subsidy for providing coverage that is as good as or better than Medicare Part D coverage.

### Effective 2014

The 35 percent tax credit that goes into effect in 2010 for businesses with fewer than 25 employees and average wages of less than \$50,000 increases to up to 50 percent of the cost of employees' premiums.

### Effective 2018

Excise tax on high-value health plans: A 40 percent excise tax will be applied to the excess value of a health plan above a statutory threshold. For most health plans, the threshold in the law will be established at \$10,200 for individual health plans and \$27,500 for family coverage. The threshold for the new excise tax will be adjusted annually for general inflation.

## Also in the Patient Protection and Affordable Care Act

**Wellness:** The Act provides limited incentives for employers to provide corporate wellness programs to their employees. The new law permits employers to offer premium discounts of up to 30 percent and other cost-related incentives to employees who participate in employer-sponsored wellness programs.

We will closely monitor further events and legislative affairs as they unfold. In the mean time, if you have any questions that may arise, please don't hesitate to contact our office. In closing all of us at The O'Neill Company consider it a privilege to serve you.

Yours with respect,

A handwritten signature in black ink that reads "T. O'Neill". The signature is written in a cursive style with a large, sweeping "O" and a long, horizontal tail.

Terry O'Neill  
President & CEO

A handwritten signature in black ink that reads "Jason Lynn". The signature is written in a cursive style with a large, sweeping "J" and a long, horizontal tail.

Jason Lynn  
Director of Operations