

# **THE O'NEILL COMPANY** **I N C O R P O R A T E D**

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## ***Congress Enacts Health Reconciliation Bill into Law***

### **Issue: Health Insurance Reform**

**Date: March 26, 2010**

**Action Taken:** On March 25, the U.S. Senate, by a vote of 56 to 43, approved H.R.4872, a health reconciliation bill that contains a series of amendments to the new health reform law. The Senate-approved bill contained two small changes (education provisions) to H.R.4872 as passed by the House on March 21, thus requiring another House vote. The House approved 220-207 the amended H.R.4872 late evening on March 25.

The changes to the health reform law contained in H.R.4872 include:

- ***A new 3.8 percent tax*** on high income taxpayers' ***unearned income, including annuity withdrawals***. The tax will take effect in 2013. Thus, for taxpayers with modified adjusted gross income in excess of \$200,000 (individual) or \$250,000 (married filing jointly), annuity distributions received in 2013 and later will be subject to the 3.8% tax. Other unearned income subject to the 3.8% tax includes interest, dividends, rents, and royalties.
- An increase in the threshold at which ***the high value health insurance tax*** is triggered, and a change in the tax's effective date. The tax takes effect in 2018. It is a 40% tax, payable by “the insurer” (the insurance company or the employer or plan administrator in the case of self insurance or other non-insurance company coverage, like flexible spending accounts), if the aggregate value of the employer-offered insurance exceeds \$27,500 for dependent coverage or \$10,200 for individual coverage. Stand alone dental and vision coverage is exempt from the aggregation rules. The employer is responsible for doing the aggregation calculations.
- Starting in six months, insurance policies will be required to allow ***coverage for adult (unmarried) children up to age 26*** under their parents' policies.
- Starting in six months, insurance can no longer base coverage (availability or price) on ***preexisting conditions*** for children. Adult coverage cannot be denied based on preexisting conditions as of 2014.
- The ***fine for failure to comply with the individual mandate*** was modified. The new law will fine those who fail to carry health insurance coverage, and

whose income exceeds the amount needed to be required to file federal income tax returns, as follows:

- In 2015, the fine will be the greater of \$325 or two percent of income.
- In 2016 it will be the greater of \$695 or 2.5 percent of income.
- Increases the “*employer shared responsibility*” assessment in two ways:
  - The assessment goes from \$750 per full-time employee to \$2,000 per full-time employee, if the employer does not offer health insurance and also employs at least one person who qualifies to buy his/her own health insurance with federal subsidies. The employer’s first 30 employees are not counted in calculating the assessment. Employees in the waiting period between date of hire and eligibility for the employer’s health plan are not counted. Only full-time employees are counted for purposes of calculating the assessment, although “full-time equivalents” are used to determine whether the employer is subject to the rule. (Only employers with 50 or more full-time (including full-time equivalents) are subject to the rule.) Full-time equivalents are determined by counting all part-time hours worked in a month, and then dividing by 120, to reach the number of “full-time equivalent” employees the employer has. The employer responsibility rules take effect in 2014.
  - The assessment on employers whose insurance is not “affordable” goes from \$2,000 per affected full-time worker to \$3,000 per affected full-time worker. This means that if a full-time worker has to pay more than a specified percentage of his/her salary (a sliding scale that tops out at 9.5%) for the employer’s health insurance, the employer’s insurance is not “affordable.” If that full-time worker uses a federal subsidy to buy his/her own insurance, then the employer must pay an assessment of \$3000 to help defray the cost of the subsidy for that worker buying his/her own insurance. This rule also takes effect in 2014.
- A delay of the *Flexible Spending Account (FSA) cap* (\$2,500, indexed) effective date to 2013.
- Closes the Medicare Part D prescription drug benefit “donut hole” over 10 years—i.e., provides for coverage under Medicare Part D for the cost of all prescription drugs, not just costs below \$2,830 and above \$4,550.
- Modifies *Medicare Advantage (MA)* plan rules as follows:

- Freezes MA payments in 2011. Beginning in 2012, MA benchmarks are reduced to from 95% of Medicare spending in high cost areas to 115% of Medicare spending in low-cost areas. The benchmark reductions will be phased in over three, five or seven years, depending on the extent of the resulting payment reductions.
- Authorizes the Centers for Medicare and Medicaid Services to adjust MA risk scores for observed differences in coding patterns relative to fee-for-service.
- Requires MA plans spend at least 85% of their revenue on medical costs on activities that improve quality of care.

We will closely monitor further events and legislative affairs as they unfold.

In closing all of us at The O'Neill Company consider it a privilege to serve you.

Yours with respect,



Terry O'Neill  
President & CEO



Jason Lynn  
Director of Operations