updated with
new “grandfather” rules
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Health Reform:
A Guide for Employers

Simple answers to health reform’s complex issues facing every employer and what you can do now to protect your business – and your future.

The Word & Brown Companies

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The health reform legislation signed into law on March 23, 2010 enacts significant changes in how Americans will purchase and utilize health insurance and health care for the next decade. This legislation will affect everyone – individuals and businesses – and has significant impact on how we manage our health, our finances and our businesses.

The Word & Brown Companies have been providing health insurance products to consumers and businesses for nearly 30 years. Our experience and expertise provides us with the unique perspective and ability to determine effective ways to continue to provide the best health care products at the best price to individuals and businesses.

One fundamental aspect of health reform legislation – Health Insurance Exchanges – has been a significant part of our business model for the past 14 years. In 1996, the Word & Brown companies introduced **The California*Choice* Health Insurance Exchange** – an innovative way to meet the changing needs of employees of California companies, offering an effective program that would enable business owners to continue to subsidize benefits in the face of rising health care premiums.

This guide highlights the areas of health reform that will most impact employers – a great help to all licensed brokers. We developed the guide as a resource to help understand the principal changes enacted by the health reform legislation and make the most of those changes for our businesses.

Inside you'll find some basic questions and answers that will help employers get ready for the upcoming changes, take advantage of new benefits and tax credits and prepare for new employer requirements established by the law. We've included a simple time line of what happens when, along with the 10 Things Every Employer Should Know about Health Reform.

Keep in mind that there are many parts to this legislation and a majority of the specifics have yet to be worked out. Many are awaiting procedural guidelines from various government agencies – particularly the states.

We recommend that you contact a licensed health insurance broker to make sure your business is properly prepared and to answer specific questions regarding changes to your benefits, how to select the best health plan for your business and new plan options that can keep your employees – and your business – healthy and strong.

Q Will my current health plan benefits change?

If you currently have a health plan for your business, based on the new law, you will probably see few immediate changes to your plan. The law provides for "grandfathering" of policies that were in effect on or before March 23, 2010, allowing you to keep your benefits for currently enrolled employees, dependents and new hires, but mandates that new elements be added to these policies (see chart at right) beginning in September. In June of 2010, the Department of Health and Human Services published a fact sheet detailing the plan changes that would cause a health plan to lose its "grandfathered" status and trigger the new federal requirement. For details on those regulations, see page 2.

New group health plans established on or *after* March 23, 2010 with plan years beginning on or after September 23, 2010 must include these new elements as well as several other coverage requirements. In addition, new group health plans may not discriminate in favor of highly compensated employees.

CHANGES TO EXISTING PLANS
(in place on or before March 23, 2010)

- dependents covered until age 26
- no lifetime benefit maximums
- no annual limits for essential benefits
- coverage can't be rescinded except for fraud

NEW PLAN REQUIREMENTS
(effective September 23, 2010)

- above changes, plus
- 100% coverage for preventive care
- children under the age of 19 cannot be denied for preexisting conditions
- no prior authorization or referral for ob/gyn (can be primary provider)
- no prior authorization or increased cost-sharing for emergency care
- coverage for clinical trials

Q Will I pay less for my health insurance coverage – or more?

Unfortunately this issue will take a while to shake out. The health reform legislation mandates require health insurance companies to add new benefits to all policies – even those currently in place – and this could increase the cost of health insurance in the near future.

However, since more businesses and individuals will be entering the insurance-buying pool, it is hoped that more buyers will help lower premiums for everyone. It is also expected that Health Insurance Exchanges will encourage more competition in the health insurance industry to help bring down rates as well.

In the meantime, to help offset the cost of insurance, you should determine if you are eligible for the **Small Business Health Care Tax Credit** (see IRS worksheet on next page). Now is also a great time to contact your insurance broker to review the benefits you have in place and evaluate your options for coverage. Your broker can help you find ways to lower your premiums through HSAs, fixed contribution plans and more.

Dependents covered to 26

Dependents can remain on their parent's plan until their 26th birthday.

No lifetime or annual limits

No lifetime dollar maximum limits or annual maximum limits on essential benefits.

No preexisting restrictions for children

Children under the age of 19 can't be denied coverage because of preexisting conditions.

Tax credits for small employers

If you have less than 25 employees and your average wage is under $50,000, you could get a tax credit of up to 35% of premiums.

Preventive services coverage

Plans must cover preventive services without making members share the cost through deductibles or copayments.

Q How can I keep the "grandfather" status of my health plan and retain my current benefits?

On June 14, 2010, the Department of Health and Human Services issued regulations meant to clarify the parts of health reform law allowing the "grandfathering" of current health plans. This would allow you to keep your current insurance without having to implement some of the changes in plans required by the new federal health reform laws. (See page 1). The chart at right details plan changes that would trigger a loss of grandfather status. Minor changes to a plan are allowed – detailed in the chart below.

The federal government estimates that 70% of small business plans will be grandfathered in the first year of health reform.

Note that fully-insured health plans subject to collective bargaining agreements will be able to maintain their grandfathered status until their agreement terminates. Retiree-only and "excepted health plans" such as dental plans, long-term care insurance or Medigap, are currently deemed as exempt from new health reform requirements.

For specific language from the Department of Health and Human Services regarding health reform, visit: http://healthreform.gov/newsroom/keeping_the_health_plan_you_have.html

ROUTINE PLAN CHANGES THAT WILL **NOT TRIGGER A LOSS OF "GRANDFATHER" STATUS**

- cost adjustments to keep pace with medical inflation
- the addition of new benefits
- modest adjustments to existing benefits
- voluntarily adopting new consumer protections under the new law
- making changes to comply with State or other Federal laws

NOTES: Premium changes are not taken into account when determining whether or not a plan is grandfathered.

PLAN CHANGES THAT WOULD CAUSE A HEALTH PLAN TO **LOSE ITS "GRANDFATHERED" STATUS** AND TRIGGER NEW FEDERAL REQUIREMENTS

- **SIGNIFICANTLY CUT OR REDUCE BENEFITS.** For example if a plan no longer provides coverage for diabetes, cystic fibrosis, etc.
- **RAISE CO-INSURANCE CHARGES.** A plan cannot raise the amount an employee must pay for hospital coverage from 20% to 25%, for example.
- **SIGNIFICANTLY RAISE CO-PAYMENT CHARGES.** In order to retain grandfather status, plans may increase copays by no more than the greater of $5 (adjusted annually for medical inflation) or a percentage equal to medical inflation plus 15%. For example, a plan that raises a copayment from $30 to $50 over the next two years will lose grandfather status.
- **SIGNIFICANTLY RAISE DEDUCTIBLES.** To keep grandfather status, plans may increase deductibles by not more than the amount of medical inflation plus 15%. Using an average inflation rate of 4-5%, this would limit deductibles to go up by no more than 19-20% from 2010 to 2011 or 23-25% from 2010 to 2012. In real terms, that means that a plan with $1,000 deductible could go up a maximum of $200 the first year and another $50 the next year.
- **SIGNIFICANTLY LOWER EMPLOYER CONTRIBUTIONS.** Grandfathered plans can decrease the premium paid by the employer by no more than 5%.
- **ADD OR LOWER ANNUAL LIMITS.**
- **CHANGE INSURANCE COMPANIES**. If an employer buys insurance from a different insurance company, the new plan will not be considered grandfathered.

Resinsurance for employers with retirees

Program for employers providing insurance to retirees over 55 not eligible for Medicare.

Nondiscrimination testing

Employer plans are barred from favoring highly compensated employees.

Wellness grants for small businesses

Employers with fewer than 100 employees can tap into over $200 million in federal grants.

New restrictions on HSA, FSA and MSA fund use

Over-the-counter drugs can no longer be reimbursed and tax for non-medical use increases to 20%.

Q Can I get tax credits for providing insurance to my employees?

YES! If you're a small business or tax-exempt organization who provides health insurance coverage to your employees you may qualify for the **Small Business Health Care Tax Credit** where you can claim up to 35% of health insurance premiums (25% for tax-exempt organizations). You will be able to claim the credit starting with the 2010 tax return your business files in 2011. Use the IRS worksheet at right to help you see if you qualify.

ARE YOUR AVERAGE EMPLOYEE WAGES LESS THAN $50,000 (from step 2)? YES NO

DO YOU PAY AT LEAST HALF OF THE INSURANCE PREMIUM FOR YOUR EMPLOYEES AT THE SINGLE (EMPLOYEE ONLY) COVERAGE RATE? YES NO

If you said 'YES' to both of the above you may be able to claim the SMALL BUSINESS HEALTH CARE TAX CREDIT. Visit www.IRS.gov for more details.

IRS TAX CREDIT WORKSHEET

STEP 1

DETERMINE THE TOTAL NUMBER OF YOUR EMPLOYEES
(not counting owners or family members)

_____ full-time employees
(number of employees who work at least 40 hours per week)

+ _____ add the number of full-time equivalent of part-time employees (calculate the number of full-time equivalents by dividing the total annual hours of part-time employees by 2080.)

= _____ total employees

If your total employees is less than 25 go to step 2

STEP 2

CALCULATE THE AVERAGE ANNUAL WAGES OF EMPLOYEES
(not counting owners or family members)

_____ Total annual wages you pay to employees

÷ _____ divide it by the number of employees from STEP 1
(total wages ÷ number of employees)

= _____ average employee wages

Q What is a Health Insurance Exchange?

With health reform, Health Insurance Exchanges will be where individuals and businesses with fewer than 100 employees will shop for insurance. Exchanges allow individuals and small businesses to join together and get better prices and more choices in health insurance – the kinds of things that big corporations can negotiate for their employees. Exchanges will be established on a state-by-state basis. In the Exchange, individuals will also be able to see if they qualify for a government subsidy to help pay for their insurance or enroll in a commercial plan when they don't. The Exchanges should be operational by 2014.

W-2 reporting for employers

W-2s must report the cost of employer health coverage that is excluded from employees' gross income.

Community living assistance

Assistance for those with limitations, encouraging employers to auto enroll employees in program.

Administration simplification

Rules established making payment, enrollment, claims and authorization processes simpler.

Medicare tax increase

Medicare Part A tax rate on wages goes up from 1.45% to 2.3% for certain individuals.

Employers must inform employees of health options

Employers must provide employees with info on employer plans, health exchanges and subsidies.

Q Are there any Health Insurance Exchanges where I can buy insurance now?

YES! Californians have access to the only state-approved Exchange currently open for business, The California*Choice*® Health Insurance Exchange.

California*Choice* has been approved by the California Department of Managed Health Care since 1996 and has administered more than 20 million member months of coverage. The California*Choice* Exchange currently serves nearly 10,000 small employer groups with 2-50 employees.

California small businesess can also purchase ancillary benefits for employees such as dental, vision, chiropractic and life through the Choice Builder Ancillary Exchange.

Ask your insurance broker what's available from California*Choice* for your business or go online at www.calchoice.com.

BENEFIT PLAN DESIGNS AVAILABLE THROUGH THE California*Choice* HEALTH INSURANCE EXCHANGE

- HMO (Health Maintenance Organization)
- EOA (Elect Open Access)
- PPO (Preferred Provider Organization)
- HSA (Health Savings Account)

HEALTH PLANS AVAILABLE THROUGH California*Choice*

- Anthem Blue Cross (June 2010)
- Health Net
- Kaiser Permanente
- Sharp Health Plan
- Western Health Advantage

HEALTH INSURANCE EXCHANGE PLAN REQUIREMENTS

- deductibles for small groups limited to $2000 for individuals and $4000 for families unless employers contribute enough to offset deductibles
- waiting periods for coverage limited to 90 days
- guaranteed issue & renewability
- premium rating based on age, area, family composition and tobacco use

Q Will I be required to buy my insurance from the state Health Insurance Exchange

No. The requirement is that everyone have health insurance – health reform doesn't dictate where you must purchase it from. The state Health Insurance Exchange is simply a new place to buy insurance that will be available to individuals and small businesses.

In fact, for small employers it will allow you to offer health benefits to permanent, full-time employees while temporary or part-time employees can purchase health insurance on their own via the Exchange.

You can continue to utilize your licensed health insurance broker to make sure you're getting the best benefits for your employees and help you find the best rates. Keep in mind that depending on plan participation, the state Health Insurance Exchange may not offer you the same number of choices and benefit plan designs that allow you to choose what works best for your business.

Individual mandate

Everyone must have health coverage or pay penalty.

Employer mandate

Employers with more than 50 employees must provide coverage or pay penalty if any employee receives a subsidy.

Large employer auto enrollment

Employers with more than 200 full-time employees that offer coverage must auto-enroll employees. Employees can opt out.

Health Insurance Exchanges operating

States must have exchanges up and running by 2014 or feds will come in and set it up themselves.

Wellness incentives

Employers can offer rewards of up to 30-50% of premiums to employees who take part in wellness and meet health standards.

Q Am I required to provide my employees with health insurance?

Although businesses are not specifically required to provide health insurance coverage, you could pay hefty penalties if your employees get coverage through a state Exchange. Beginning in 2014, if you have more than 50 full-time employees and you do not offer coverage to your employees and even one receives a government subsidy to purchase insurance through a state Exchange, you will be required to pay a penalty fee. These penalty fees are not tax-deductible. Also beginning in 2014, employers with more than 200 employees will be required to automatically enroll employees into health insurance plans although employees may opt out of coverage.

PENALTY FOR EMPLOYERS WHO DO NOT OFFER HEALTH INSURANCE (effective 2014)

- $2000 for each full-time employee after the first 30 (if you do not offer coverage)

  OR

- $3000 for each employee who receives a government subsidy for health insurance (if you do offer coverage) or $2000 for each full-time employee, whichever is less

DO YOU HAVE LESS THAN 50 FULL-TIME EMPLOYEES? YES NO

DO YOU OFFER HEALTH COVERAGE TO YOUR EMPLOYEES? YES NO

If you answered 'NO', you may be at risk for a penalty fee beginning in 2014.

For information on affordable health plans for your business, visit www.choiceadmin.com

Q Do individuals have to buy insurance?

Starting in 2014, every U.S. citizen and legal resident will be required to have health insurance. If you aren't covered through your employer and don't purchase coverage on your own, you will have to pay a yearly fine of $695 per person (maximum $2,085 per family) or 2.5% of household income, whichever is greater. There will be exceptions for financial hardship and religious objections.

Q Where can individuals find good rates on health insurance?

A licensed insurance broker is a great way to find the best rates for health insurance. Many brokers have online quoting right on their websites so that you can just enter your basic information and get an instant side-by-side comparison of available plans.

Be careful about buying a no-frills online plan from a company you don't recognize – you may be in for a shock at what is left out of your coverage when it comes time for you to use it. Your broker can make sure that the plan you choose fits your needs and gives you the coverage that will protect your health and your family.

For individuals and families not covered in an employer plan, **www.healthcompare.com** is a great source for the highest quality benefits at the right price for individuals – on line.

No preexisting condition exclusions

Coverage cannot be denied for those with preexisting conditions.

Comprehensive coverage requirement

Individual and small group plans must include essential health benefits.

Limits on deductibles and copayments

Group health plan deductibles are limited to amounts allowed for HSA plans.

Ban on all annual limits

Plans may no longer impose any annual benefit limits.

Cadillac plan excise tax

Tax on employer plans valued at over $10,200 for individuals and $27,500 for families.

10 Things Every Business Should Know About Health Reform

1 Tax Credits for Small Employers
Employers with fewer than 25 employees and average annual wages of less than $50,000 may claim a tax credit for the cost of providing insurance beginning on their 2011 tax return. For 2010, the credit is 35% of cost.

2 Dependent Coverage
Health plans that cover dependents will have to cover dependents on a parent's plan until their 26th birthday regardless of their student status. This applies both to new and existing plans.

3 Wellness Grants
Businesses with under 100 employees can apply for $200 million in available grants to fund new wellness programs (must be implemented after March 23, 2010).

4 W-2 Reporting
Starting with tax years beginning after December 31, 2010, employers are required to report on Form W-2 the total cost of employer-provided group health coverage that is excluded from the employee's gross income.

5 Requirement to Inform Employees
Beginning in 2013, employers must provide each employee with written information on the employer health plan, health exchanges, available subsidies for insurance and guidelines about how to purchase insurance.

6 Simple Cafeteria Safe Harbor
Beginning 2011, simple cafeteria plans for small businesses include a safe harbor from nondiscrimination requirements if the employer averaged 100 or fewer employees during either of the 2 years preceding 2011.

7 Employer Play or Pay
Beginning in 2014, employers with more than 50 employees will pay a per-employee penalty fee if they do not offer health coverage or if they offer coverage and at least one full-time employee receives a premium subsidy.

8 Tax on "Cadillac" Plans
Beginning in 2018, there will be an excise tax on any "excess benefit" of employer-sponsored coverage. This is currently defined as more than $10,200 for individual coverage or more than $27,500 for family coverage.

9 Automatic Enrollment
Employers with more than 200 employees must automatically enroll employees in employer-sponsored plans.

10 Breastfeeding Accommodation
Health reform will amend the Fair Labors Standard Act to require that employers provide unpaid breaks for employees to express breast milk and provide a private location for these breaks.

The information contained in this guide is not intended as specific legal, medical, financial or other advice. Every attempt has been made to ensure the accuracy of the information contained herein, according to general information currently available to the public regarding health reform legislation. This information is subject to change based on changes in the law or administration of the law.

The Word & Brown Companies suggest that employers consult a licensed insurance broker and tax professional to understand the requirements under the law specific to their business' individual circumstances and conditions.

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721 South Parker . Orange, CA 92868 . 800.558.8003 . www.wordandbrown.com

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