Understanding the Patient Protection and Affordable Care Act

Your guide to the key provisions of Health Care Reform

- What they are
- What they mean
- How Colonial Life can help

Colonial Life

Making benefits count.

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New Mandates, New Rights, New Protections

Federal health care reform is the result of the March 2010 enactment of the Patient Protection and Affordable Care Act (PPACA) as amended by the Health Care and Education Reconciliation Act.

Together these laws are commonly referred to as health care reform.

Even though health care reform is now law, many of the details remain unanswered and will be clarified by future regulations and guidance.

While effective dates of many provisions are several years down the road, some significant reforms were effective almost immediately. However, even provisions that do not go into effect in the immediate future require planning.

Following is a broad overview of the major provisions of health care reform, the impacts they will have on employers and how Colonial Life can help as these landmark reforms are implemented.

And yet, with this new set of challenges, the old ones still remain. Employers are still faced with managing health care costs and employees must still pay deductibles, co-pays and other out-of-pocket costs.

Remember, we're here to help—whether it's helping to educate employees about plan changes or simply continuing to provide quality, personal insurance products to help fill gaps that occur.

Times may be changing, but Colonial Life remains a constant.

- Our products, which are offered in addition to qualified health insurance, are not directly affected by health care reform.
- Voluntary benefits and the need for benefits communication and education will remain a very relevant part of the benefits package employers offer their employees.
- The need for benefits communication and education will be greater than ever.

We're here, as we have been since 1939, *making benefits count.*

Key Provisions

Many of the most publicized provisions went into effect within the first 18 months of passage, while other changes will come gradually through 2014.

On the next two pages we've provided a high level checklist for you as you tackle your role in Health Care Reform.

A more in-depth view of each provision follows. For specific provisions that may affect Colonial Life's portfolio of products, see page 16.

Your PPACA Checklist

☐ **Contact your carrier/advisor to determine which mandates your plan should be in compliance with and take necessary steps.**

2012
- Form W-2 employer reporting of health coverages
- Summary of benefits documents

2013
- Medical retiree Part D subsidy eliminated
- FSA caps
- Written notice of insurance exchanges
- Medicare tax increase

2014
- Coverage mandates and the play-or-pay penalty
- Insurance exchanges available
- End of pre-existing condition limitations for all
- Limit on waiting periods
- Auto enroll

2018
- Excise tax on high-cost coverage

☐ **Consult your tax advisor to determine if you qualify for the small employer health insurance credit.**

☐ **Consider establishing a "simple cafeteria plan" that is not subject to nondiscrimination rules if you are an eligible small employer.**

☐ **Communicate to employees specific changes that do impact them.**

2010-2011
- Dependents covered up to age 26
- Pre-existing condition limitations for children under 19 are eliminated
- New rules regarding FSAs and over-the-counter medication
- Preventive care is covered at 100%
- Lifetime maximums are eliminated
- Plans cannot rescind coverage
- Access to provider choice/emergency services

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☐ **Explain to your employees that key provisions apply only to health insurance, not any other ancillary benefits such as dental, vision or their supplemental insurance benefits such as accident, disability, critical illness and long-term care insurance.**

☐ **Communicate and ensure employees understand any changes that have occurred as well as any coverage gaps they may still have.**

Colonial Life can help with many of these mandates by:

- Offering cost containment solutions
  - Voluntary benefits
  - Dependent verification
  - Section 125
  - Wellness support
- Communicating health plan changes
  - 1-1 counseling sessions
  - Communication tools
- Alleviating added administrative requirements
  - Benefit statements
  - Harmony enrollment system
  - Dependent verification

2010 – 2011

Small employer health insurance credit

What is it? A tax credit is available to certain small employers that provide health insurance to their employees. To be eligible for the credit, the employer must:

- Have fewer than 25 full-time equivalent employees (FTEs) for the taxable year.
- Have average annual wages of its employees be less than $50,000 per FTE for the year.
- Maintain a "qualifying arrangement." A qualifying arrangement is one under which the employer pays the premiums for each employee enrolled in health insurance coverage offered by the employer in an amount equal to a uniform percentage that is not less than 50 percent of the premium cost of the coverage.

Impact on employers—An eligible small employer can benefit from the tax savings from this credit to help with the cost of eligible health insurance coverage.

Colonial Life can help!

Our specified disease and hospital confinement indemnity insurance products, when premium is paid by employers, count toward this credit through 2013.

Simple cafeteria plan

What is it? Eligible small employers will be able to establish a cafeteria plan, called a "simple cafeteria plan." A plan meeting the requirements for a simple cafeteria plan will be treated as meeting any applicable non-discrimination requirements for that year. For purposes of this rule, a small employer is one that employed 100 or fewer employees during the preceding two years.

Impact on employers—This is simply a new opportunity for employers who qualify.

Colonial Life can help!

Through our strategic partnership with Ameriflex, Colonial Life accounts can establish simple cafeteria plans at no direct cost to them as long as they maintain $1,800 in Colonial Life premium.

Small Business and Health Care Reform

Employers with fewer than 25 full-time employees:

- Eligible for a tax credit if the employer's average annual wages are below $50,000 and the employer contributes at least 50% of total premium costs

Employers with fewer than 50 full-time employees:

- Exempt from Nursing Mother Break and Accommodations Provisions if a hardship is created
- Exempt from the employer mandate if they do not provide health coverage in 2014
- Employers with up to 50 employees (or up to 100 employees at the discretion of the state) will have access to state-based Small Business Health Options Program (SHOP) Exchanges (starting in 2014)

Employers with fewer than 100 full-time employees:

- Grants available for workplace wellness programs for employers with fewer than 100 workers who work 25 or more hours a week
- Can implement simple cafeteria plans that are exempt from non-discrimination requirements of Code section 125

Extension of dependent coverage to age 26

What is it? Plans that cover dependent children must cover all children (married and unmarried) of the insured until the child reaches age 26.

Impact on employers—This creates an administrative burden on employers who need to enroll these dependents; costs and premiums may increase.

Colonial Life can help! Our Harmony® enrollment system can help clearly explain any eligibility criteria to your employees and enroll any newly eligible dependents in coverage.

Flexible spending account changes—OTC medications

What is it? Over-the-counter medicines or products are no longer eligible for reimbursement under a health FSA, HRA, HSA or Archer MSA without a doctor's prescription. Insulin remains reimbursable.

Impact on employers—Your employees will need to be made aware of this as they plan their expenses for the coming plan year.

Colonial Life can help! With the Harmony® enrollment system, we can add any special messaging reminders to make sure your employees are educated about these changes.

Medical loss ratios

What is it? Insurers will be required to maintain medical loss ratios of 80 percent for small group or individual plans and 85 percent for large group plans. Insurers must provide rebates to covered individuals if loss ratios fall below these levels.

Impact on employers—The restriction on loss ratios could decrease premiums for employers if the insurer is currently spending less than 80 to 85 percent of each dollar on medical expenses.

Preventive care covered at 100 percent

What is it? Medical insurers will be required to pay for the entire cost of preventive services and cannot ask employees to share in this cost. This is designed to motivate insured individuals to receive routine preventive care and screenings, such as PAP smears, mammograms, PSA tests and colonoscopies.

Impact on employers—Employers who did not offer plans that cover preventive services at 100 percent needed to alter their coverage to comply with this requirement; costs and premiums may increase.

Pre-existing condition exclusions prohibited for children under 19

What is it? Health insurance companies are required to make their policies available to individuals with no pre-existing condition exclusions applied. For people under age 19, this takes effect for plan years beginning Sept. 23, 2010. This will apply to all individuals in 2014.

Impact on employers—The impact is limited as most employer-sponsored health coverage does not include pre-existing condition exclusions.

Colonial Life can help! Our Harmony® enrollment system can help enroll any newly eligible individuals in coverage.

Annual and lifetime maximums

What is it? Health insurance plans may not impose lifetime limits on the value of any essential benefits, as established under the law. Annual limits will also be restricted by regulations of the Secretary of Health and Human Services (HHS).

Impact on employers—Many benefit plans needed to be amended to comply with removal of maximums for essential benefits.

Plans cannot rescind coverage

What is it? Insurers will no longer be permitted to retroactively cancel or rescind coverage for insured individuals except in the case of fraud.

Impact on employers—Employers have limited impact to their health plans; the responsibility lies with the medical insurers to change their practice.

Access to provider choice/emergency services

What is it? The legislation requires medical insurers to treat and charge insured individuals for emergency services received from out-of-network providers the same way they do for in-network emergency services.

Impact on employers—Many employers and medical insurers already follow this requirement. Those who do not need to amend their practices to comply.

2012

Summary of benefits documents

What is it? Medical insurers will be required to provide a summary of the provisions of the plan, and Health and Human Services will dictate the format of these documents. Some elements include:

- Summary cannot be longer than four pages
- Must use 12 point font or larger
- Must be "culturally appropriate"
- Must use language an average employee can understand
- Must use uniform definitions, terms and standardized information about benefits provided

Impact on employers—Impact should be limited because insurers will produce this documentation in most cases.

2013

Health FSA caps

What is it? Health flexible spending arrangement (FSAs) salary reductions are capped at $2,500 per year.

Impact on employers—FSA plans will need to be amended to comply with the cap. Additionally, your employees will need to be made aware of this.

Colonial Life can help!

Our trained benefit counselors can help communicate this change to your employees. Additionally, our portfolio of supplemental health products can help your employees cover any gaps in coverage that may occur because of this reduction.

Employer reporting of health coverage on Form W-2

What is it? Employers must disclose the value of employer-provided health benefits for each employee on the employee's annual Form W-2 provided in 2013 for the 2012 tax year.

Impact on employers—This may create an administrative burden on employers who will need to calculate these values and place them in the W-2 form.

Colonial Life can help!

Colonial Life can provide benefit statements to employees at each enrollment. Benefit statements act as a natural complement to this provision by fully illustrating all that goes into the figure that appears on their W-2, potentially reducing the number of questions that employees have.

Written notice of insurance exchanges

What is it? Employers must provide new hires after March 2013 and existing employees prior to that date with information about state insurance exchanges, including information on employee eligibility if the employer's coverage is not affordable and information on free choice vouchers and premium credits.

Impact to employers—This may create an administrative burden on employers who will need to create and distribute the written notice.

Medical Retiree Part D subsidy

What is it? The deduction previously permitted for amounts received by an employer as a Medical Retiree Part D subsidy is eliminated.

Impact on employers—Employers who receive the subsidy will incur higher tax liabilities.

Medicare taxes

What is it? A 0.9 percent increase in Medicare taxes will go into effect for those earning more than $200,000 a year for single individuals and $250,000 for joint filers. The increase is on the employee portion of the tax only.

Impact on employers—Employers will be required to withhold the additional tax.

2014

Coverage mandates and the Play-or-Pay penalty

What is it? Individuals will be required to obtain coverage under a qualified health insurance plan or pay a tax penalty, in some circumstances.

Employers will be required to offer qualified health insurance to their employees or pay a penalty in some circumstances.

- Small businesses with fewer than 50 employees will be exempt.
- If an employer is subject to the penalty and fails to offer any full-time employee health coverage, and if any full-time employee enrolls in the exchange and receives a tax subsidy to purchase coverage, the employer is subject to a penalty equal to the number of full-time employees it has times $2,000 per year. For purposes of calculating the penalty, however, the first 30 employees are disregarded.
- Employers who offer coverage but have employees whose required contribution for that coverage would be between 8 and 9.8 percent of household income must provide employees with a "free choice voucher." The voucher is provided only to eligible employees who do not participate in the employer-sponsored health plan. The voucher must be equal to the amount of the contribution that the employer would have made to its own plan and can be used toward the purchase of plans through the exchanges.

Impact on employers—Employers will have to report whether they do or do not comply with the mandate and pay any resulting penalty for non-compliance.

Insurance exchanges available

What is it? Exchanges will create an open but highly regulated marketplace where individuals and small businesses can purchase health insurance coverage through an online portal. Exchange health plans will be offered in four tiers (Platinum, Gold, Silver, Bronze) that adjust premiums according to the level of cost sharing. The exchanges are designed to:

- Use a competitive marketplace to try and lower medical premiums
- Make health benefits affordable and accessible outside the workplace
- Make it easy to "comparison shop" online
- Includes subsidies for low-wage workers

Impact on employers—The exchanges can serve as a mechanism for small employers to obtain health insurance for their employees.

End of pre-existing condition limitations for all

What is it? Health insurance companies will be required to make their policies available to all individuals with no pre-existing condition exclusions applied.

Impact on employers—The impact will be limited as most employer-sponsored health coverage does not include pre-existing condition exclusions.

Limit on waiting periods

What is it? For medical carriers offering group coverage, the waiting period for benefit plans will not be permitted to exceed 90 days.

Impact on employers—Employers who currently offer a waiting period longer than 90 days will have to change their plan to meet this requirement.

Auto-enroll

What is it? Employers with more than 200 employees who offer a health plan must automatically enroll all new employees in the plan. The employee will have the opportunity to opt out of the full-time coverage. At this time it is unclear when implementation will begin, pending regulations to be issued by the U.S. Secretary of Labor.

Impact on employers—Employers will need to do the enrollments, notify employees of their option to opt-out and then disenroll any employees who opt out.

2018

Excise tax on high-cost coverage (Cadillac Tax)

What is it? "High-cost" health plans will be subject to an excise tax, paid by the insurance company selling the plan. A plan is considered a "high-cost" plan if the aggregate annual value of the coverage provided by an employer to an employee is greater than $10,200 for single coverage and $27,500 for family coverage. Special rules apply for plans for retirees and employees in high-risk professions and multi-employer plans. This provision is intended to encourage employers to hold down the value of the plans they offer to employees and could possibly result in reduced medical spending.

Impact on employers—Employers will be required to calculate the value of employees' benefit plans anc the insurance carriers of their pro-rata share of the

For more information on any of these topics visit:

The U.S. Department of Labor website: **www.dol.gov/ebsa/healthreform**

Society for Human Resource Management website: **www.shrm.org**
Some content will be available for Members Only

Health Care Reform & Colonial Life

Colonial Life's products, which are offered in addition to qualified health insurance, are not directly affected by health care reform. In general, they fall under the category of excepted benefits. That means Colonial Life products are exempt from:

- health plan design changes
- coverage requirements including requirements for covering preventive services
- restrictions on limits
- loss ratio requirements
- coverage of dependents to age 26
- waiting period limits
- guaranteed issue (no pre-existing condition) requirements
- and summary documents requirements.

Additionally, because Colonial Life products are supplemental, they do not constitute qualified health insurance and therefore will not satisfy the individual or employer mandate for health insurance.

Exchanges

Colonial Life's products will not be eligible to be offered on the exchange.

W-2 Reporting

The W-2 reporting requirement will apply to certain of Colonial Life's products when they are subject to the excise tax.

Excise Tax

Colonial Life's currently marketed insurance products when paid for on an after-tax basis are exempted from the excise tax. Colonial Life's accident and disability products are not subject to the excise tax whether paid for with pre-tax or after-tax dollars. Certain supplemental health products when paid using pre-tax dollars, may be subject to the excise tax. Consult your tax advisor for more information.

Grandfathered Plans

- A **"grandfathered"** plan is one that was in existence on March 23, 2010 (the day PPACA was enacted). A grandfathered health plan is required to comply only with a subset of the group market reforms under PPACA. The benefit of maintaining grandfathered health plan status is that an employer-sponsored plan will not have to comply with some of the market reforms.
- A **"non-grandfathered"** plan is a plan that was not in existence on the date the law was enacted OR one that loses its grandfathered status due to certain changes to the plan. Interim regulations and additional guidance issued by the federal government in the form of Frequently Asked Questions (FAQs) outlines what plan design changes would cause a plan to lose its grandfathered status.

Grandfathered plans are not required to implement the following provisions:

- 100% preventive care coverage
- No prior authorization for obstetric/gynecological care
- Emergency care benefits same in and out of network
- Nondiscrimination for insured plans under tax code
- Financial and quality data reporting to government
- Appeal process rules
- Cover children to age 26 who have other employer-provided coverage (only until 2014)
- Rules on deductible and out-of-pocket maximums
- Coverage of clinical trials

Requirements

An employer sponsoring a grandfathered health plan must:

- Include in plan materials that describe plan benefits a statement indicating that the employer believes the health plan is grandfathered.
- Provide contact information for questions and complaints.
- Maintain records documenting the coverage in effect on March 23, 2010, as well as documents to verify, explain or clarify grandfathered status.
- Make these records available upon request.

Maintaining Grandfathered Status

- Each employer has to weigh the cost of losing grandfathered health plan status against the cost reductions from the proposed plan changes that would cause loss of grandfathered health plan status. Savings derived from adopting plan changes need to be assessed relative to the additional cost and administrative burden required to be in compliance as a non-grandfathered plan.
- Based on the cost/benefit analysis employers must determine if design/contribution changes should be made, even if they result in a loss of grandfathered status.

Losing Grandfathered Status

Actions that cause a plan to lose grandfathered status are complex. It is important to thoroughly understand all that is involved before you make any changes.

Below are examples of actions that can result in the loss of grandfathered status:

- Elimination of benefits
- Increase in percentage cost-sharing
- Increase in a fixed-amount cost-sharing other than a co-payment
- Increase in a fixed-amount co-payment
- Decrease in contribution rate by employer
- Changes in (or addition of) annual limits
- Decrease in limit for a plan or coverage with only a lifetime limit or with an annual limit
- Mergers and acquisitions
- Change in plan eligibility

For more information, contact your health plan provider for full details.

Nothing in this document is intended to be, nor should be, construed as legal advice or tax advice. Contact your legal counsel or tax advisor if you have legal or tax questions regarding any matter discussed in this document.

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