4-16-2010

Health Insurance Bills Are Now Law

Neil E. Harl
Iowa State University

Follow this and additional works at: http://lib.dr.iastate.edu/aglawdigest

Part of the Agricultural and Resource Economics Commons, Agricultural Economics Commons, Agriculture Law Commons, and the Public Economics Commons

Recommended Citation

Available at: http://lib.dr.iastate.edu/aglawdigest/vol21/iss8/1

This Article is brought to you for free and open access by the Journals at Iowa State University Digital Repository. It has been accepted for inclusion in Agricultural Law Digest by an authorized editor of Iowa State University Digital Repository. For more information, please contact digirep@iastate.edu.
Health Insurance Bills Are Now Law

-by Neil E. Harl

With the President’s signature to the Health Care and Education Reconciliation Act of 2010 on March 30, 2010 following the approval of the Patient Protection and Affordable Care Act on March 23, 2010, the task that has eluded administrations for nearly 80 years was accomplished. The massive reform of the health care system, the most sweeping change in domestic policy in a generation, phases in over the next several years. Basically, the legislation expands health insurance coverage by requiring “minimal insurance coverage” for individuals and their dependents beginning by 2014, by obtaining coverage through their employers or by purchasing coverage through newly created market places called “exchanges” starting in 2014.

It is critically important to note that individuals are assured that they can maintain existing coverage under a group health plan or other health insurance coverage in which they were enrolled on the date of enactment of the PPACA which was March 23, 2010. That is the case whether or not the individual renews the coverage after March 23, 2010.

The legislation provides qualifying taxpayers with household income up to 400 percent of the federal poverty line a refundable health insurance premium assistance credit after 2013 on a sliding scale basis.

Small business coverage

Starting with 2010 taxes, small businesses with fewer than 25 full-time equivalent employees paying at least 50 percent of the health care premiums for their employees qualify for a tax credit up to 35 percent of their premiums. The credit increases to 50 percent after 2014 if insurance is purchased through an exchange. The credit phases out based on the number of employees and average wages. Seasonal worker hours and wages are not counted in determining the number of full-time equivalent employees unless the worker works for the employer on more than 120 days during the taxable year.

Prescription drug coverage for retired employees

Some who have not been familiar with recent tax legislation (or were looking for areas of the new law to criticize) have complained about the increased costs to businesses which have been widely publicized. The costs involved are related to the provision added when The Medicare Part D prescription drug bill passed in 2003. That legislation gave businesses a double subsidy to help cover the cost of providing prescription drug coverage for their retired employees.

The legislation required that 28 percent of the cost of retiree prescription drug plans be paid by the government and businesses were allowed to both exclude that 28 percent subsidy from income and also deduct that subsidy from their income. The 2010 legislation changes that arrangement, in 2013. Businesses will still get the same 28 percent subsidy.

* Charles F. Curtiss Distinguished Professor in Agriculture and Emeritus Professor of Economics, Iowa State University; member of the Iowa Bar.
and that amount will be tax-free but the subsidy will not be deductible.\textsuperscript{14}

\textbf{Itemized deduction for medical expenses}

The 2010 legislation increases the itemized deduction percentage from 7.5 percent to 10 percent but not until 2013.\textsuperscript{15} The 7.5 percent amount is continued through 2016 for individuals (or their spouse) who attain age 65 before the end of the taxable year.\textsuperscript{16} However, that special provision does not apply for alternative minimum tax purposes (which already required a 10 percent rate for AMT calculations).\textsuperscript{17}

\textbf{Pre-existing conditions}

The 2010 law is to establish, within 90 days after the date of enactment, a temporary high risk pool to provide health insurance coverage through 2013 for those with a pre-existing condition, who is a citizen or national of the United States (or is lawfully in the country) and has not been covered with “creditable” coverage.\textsuperscript{18} The high risk pool is to provide coverage for those with pre-existing conditions with the insurer’s share of the total allowed cost of benefits not less than 65 percent of the costs and that has an out-of-pocket limit not greater than those for high deductible health plans,\textsuperscript{19} although that limit can be adjusted administratively to meet the 65 percent test.\textsuperscript{20}

The Act also prohibits pre-existing condition exclusions or other discrimination based on health status.\textsuperscript{21}

\textbf{Early retirees}

The new law invests $5 billion\textsuperscript{22} in a new reinsurance program for early retirees, age 55 and older, eligible spouses, surviving spouses and dependents of the retirees,\textsuperscript{23} effective in 2010. A temporary reinsurance program is to be set up not later than 90 days after enactment of the legislation.\textsuperscript{24}

\textbf{Prohibition of discriminatory insurance rates and terms}

The new law prohibits discriminatory premium rates (other than based on age (within limits), tobacco use, whether coverage is for an individual or a family and the rating area),\textsuperscript{25} guarantees availability of coverage,\textsuperscript{26} guarantees renewability of coverage\textsuperscript{27} and prohibits discrimination based on health status including health status of dependents based on genetic information.\textsuperscript{28}

\textbf{Lifetime or annual limits on benefits}

The 2010 bill prohibits lifetime limits on benefits and prohibits annual limits after 2013.\textsuperscript{29} Before 2014, group or individual insurance coverage may only establish a restricted annual limit on the dollar value of benefits for any participant or beneficiary with respect to the scope of benefits that are “essential health benefits” as enumerated in the bill.\textsuperscript{30} Annual or lifetime limits may be placed on specific covered benefits that are not “essential health benefits.”\textsuperscript{31}

\textbf{Increase in the HI tax for high income taxpayers}

Beginning in 2013, an additional 0.5 percent hospital insurance (HI) tax for FICA purposes will be imposed on taxpayers (other than a corporation, estate or trust) receiving wages in excess of $250,000 on a joint return, $200,000 for others.\textsuperscript{32} A comparable provision applies for SECA for the self-employed.\textsuperscript{33}

\textbf{To sum up}

While the legislation is complex and lengthy, it represents a comprehensive effort to address long-standing shortcomings of health coverage in this country.

\textbf{ENDNOTES}

4 Patient Protection and Affordable Care Act, § 1501, 111th Cong., 2d Sess. (2010), hereinafter PPACA.
5 PPACA, § 1251(a).
6 Id., § 1251(a)(2).
7 PPACA Sec. 1401, adding I.R.C. Sec. 36B; Reconciliation Act Sec. 1001.
8 PPACA § 1421, adding I.R.C. Sec. 45R(d)(1).
9 PPACA, § 1421, adding I.R.C. § 45R. See IR-2010-38. See also http://www.irs.gov/newsroom/article/0,_id=220839.00.html (questions and answers on new credit for small employers).
10 PPACA, § 1421, adding I.R.C. § 45R(c).
11 I.R.C. § 45R(d)(5).
12 See, e.g, the Wall Street Journal, p. B3, April 1, 2010 ($1 billion for AT&T, $150 million for Deere & Co. and Boeing).
15 PPACA § 9013(a), amending I.R.C. Sec. 213(a).
16 Id., § 9013(b), adding I.R.C. § 213(f).
17 I.R.C. § 56(b)(1)(B), as amended by PPACA, § 9013(c).
18 PPACA § 1101(a), (d).
19 I.R.C. § 223(c)(2).
20 PPACA, § 1101(c)(2).
22 PPACA § 1102(e).
23 PPACA § 1102(a).
24 Id.
26 Id., § 2702.
27 Id., § 2703.
28 Id., § 2705.
30 PPACA §§ 10101(a), 1302(b).
31 PPACA § 10101(a), adding 42 U.S.C. § 2711(b).
32 PPACA § 9015(a), amending I.R.C. § 3121(b).
33 Id., § 9015(b), adding I.R.C. § 1401(b).