# HEALTH CARE REFORM update

BlueCross BlueShield of Kansas City
An Independent Licensee of the Blue Cross and Blue Shield Association

## Individual Mandate & Subsidy

On Tuesday, March 23, President Obama signed into law the “Patient Protection and Affordable Care Act” (PPACA). A reconciliation bill making changes to the Act was signed by the President on March 30. The PPACA as amended by the reconciliation bill is collectively referred to as the Act in this summary. This summary provides an overview of the individual mandate provisions of the Act.

### *Summary*

Individuals are required to maintain minimum essential coverage each month or pay a penalty. Insurers and employers are required to report certain information to the Secretary of the Treasury (“Treasury”) and provide information to individuals annually. (PPACA §§ 1501, 1502 and 10106 adding §§ 5000A and 6055 to the Internal Revenue Code (IRC); § 1002 of Reconciliation Bill).

The Act also provides for premium credits and cost-sharing subsidies to assist low income individuals with the cost of health benefits. (PPACA §§ 1401 and 10105).

### *Scope*

Beginning January 1, 2014, all U.S. residents are required to maintain minimum essential coverage unless the individual falls into one of the following exceptions:

- Individuals with a religious conscience exemption (applies only to certain faiths);
- Incarcerated individuals;
- Undocumented aliens;
- Individuals who cannot afford coverage (i.e. required contribution exceeds 8% of household income);
- Individuals with a coverage gap of less than 3 months;
- Individuals in a hardship situation (as defined by the Secretary of Dept. of Health & Human Services (HHS));
- Individuals with income below the tax filing threshold; and
- Members of Indian tribes.

(PPACA §§1501 and 10106 adding IRC §§ 5000A(d) and (e); §1002 of Reconciliation Bill)

### *Coverage Requirements*

Individuals are responsible for ensuring that they, and any dependent, are covered under minimum essential coverage. Minimum essential coverage includes:

- Government sponsored programs including: Medicare, Medicaid, Children's Health Insurance Program coverage (CHIP), TRICARE, coverage through Veterans Affairs, and Health Care for Peace Corps volunteers;
- Employer-sponsored plans including governmental plans, grandfathered plans and other plans offered in the small or large group market;
- Individual market plans, including grandfathered plans; or
- Other coverage designated as minimum essential coverage by HHS and/or the Dept. of the Treasury.

(PPACA § 1501, adding IRC §5000A(f))

### *Penalty*

The annual penalty for not having minimum essential coverage will be the greater of a flat dollar amount per individual or a percentage of the individual's taxable income. For any dependent under the age 18, the penalty is one half of the individual amount.

- The flat dollar amount per individual is $95 in 2014; $325 in 2015 and $695 in 2016. After 2016, the flat dollar amount is indexed to inflation. The flat dollar penalty is capped at 300% of the flat dollar amount. For example:
  - A family of three (two parents and one child under 18) would have a flat dollar penalty of $1737 in 2016;
  - A family of four (two parents and two children over 18) would have a flat dollar penalty of $2,085 in 2016 because the 300 % cap would apply.
- The percentage of taxable income is an amount equal to a percentage of a household's income (as defined by the Act) that is in excess of the tax filing threshold (phased in at 1% in 2014; 2% in 2015; 2.5% in 2016). For example:
  - If an individual has a household income of $50,000, the percentage would be 1% of the difference between $50,000 and the tax threshold (which is $9,350 for an individual in 2010). Assuming the tax threshold is $10,000 in 2014, this individual would be subject to a percentage penalty of $400. Because this percentage penalty is greater than the flat dollar penalty for 2014 (which is $95), he would pay the percentage penalty.

Generally, the annual penalty is capped at an amount equal to the national average premium for qualified health plans which have a bronze level of coverage available through the state Exchange.

(PPACA §§ 1501 and 10106 adding IRC §5000A(c); § 1002 of Reconciliation Bill).

### *Enforcement*

The penalty will be paid as a federal tax liability on income tax returns and is enforced by the Treasury. Individuals that fail to pay the penalty will not be subject to criminal penalties, liens or levies.

### *Reporting Requirements for Insurers and Employers*

Beginning in 2014 (and on or before January 31 of each subsequent year), insurers and/or employers (if self funded) who provide minimum essential coverage to individuals during a calendar year must submit the following information to the Treasury:

- Name, address and tax identification number of the primary insured and the name of each dependent covered;
- Dates during which the individual(s) was covered under minimum essential coverage;
- Whether the coverage is a qualified health plan offered through an Exchange;

- The amount (if any) for premium credits and any cost-sharing subsidies; and
- Any other information required by the Treasury.

If essential health benefits coverage is sponsored by an employer, the following information must also be submitted:

- Name, address and employer identification number of the employer maintaining the group health plan;
- Portion of the premium (if any) required to be paid by the employer; and
- If the health insurance coverage is a qualified health plan in the small group market offered through an Exchange, any other information the Treasury may require for administration of the tax credit for employee health insurance expenses of small employers.

In addition, the insurer or employer (whichever is submitting the information to the Treasury) must provide the following information to each individual whose information is submitted:

- Name, address, telephone number, and contact person of the entity that submitted the information; and
- The information submitted to the Treasury with respect to such individual.

(PPACA § 1502 adding IRC § 6055)

### *Premium Credits and Cost-Sharing Subsidies*

Beginning in 2014, individuals who are enrolled in a health benefits plan purchased through an Exchange may be eligible for a premium credit or cost-sharing subsidy.

**Premium Credits**

- The Premium Credit is available to people with incomes up to 400% of the Federal Poverty Level (FPL), excluding illegal immigrants and individuals eligible for employer-sponsored coverage (except as noted below), Medicare, Medicaid, CHIP, TRICARE, or coverage through Veterans Affairs.
- Individuals who are eligible for employer sponsored coverage may apply for a premium credit when their employer coverage is below 60% actuarial value or if premiums exceed 9.5% of their income.
- The credit is equal to the *lesser of*:
  - The total monthly premium for the taxpayer and any covered dependents; or
  - The amount by which the adjusted monthly premium for the second lowest "Silver" plan purchased through the Exchange exceeds a defined percentage of household income (a sliding scale based on FPL ranging from 2% to 9.5% of income).

  Note: The premium is adjusted based upon age. In addition, benefits (including state mandated benefits) offered in addition to the required essential health benefits are excluded from the portion of the premium used to determine the premium credit amount.
- The premium credit is determined in advance based upon the taxpayers' last tax return. The credit is paid directly to the insurer by Treasury, and the insurer must reflect the payment on the member's premium bill.

(PPACA §§ 1401 and 10105 adding IRC §36B; § 1001 of the Reconciliation Bill).

**Cost-sharing Subsidy**

- To be eligible for a cost-sharing subsidy an individual must be enrolled in a "Silver" plan through the Exchange. Cost-sharing subsidies reduce the out of pocket limits currently set at $5,950 for individuals and $11,900 for families (2010).
- The amount of the cost-sharing subsidy is based upon a sliding scale depending on FPL (ranging from a subsidy of 2/3 of the out of pocket limit to 1/3 of the out of pocket limit).
- Benefits (including state mandated benefits) offered in addition to the required essential health benefits are excluded from the portion of the premium used to determine the cost-sharing subsidy amount.

- HHS notifies the insurer if an enrollee is eligible for the cost-sharing subsidy. The insurer is required to notify HHS if there are any cost-sharing reductions and HHS makes periodic payments to the insurer.

(PPACA § 1402 and § 1001 of the Reconciliation Bill).

### *Effective Date*

Individuals are required to have minimum essential coverage beginning January 1, 2014. The penalty will be payable for the 2014 tax year (generally taxes filed in 2015). The insurer and employer reporting obligations take effect in 2014. The premium credit and cost-sharing subsidy become available beginning January 1, 2014 through the Exchange.



References

PPACA: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h3590enr.txt.pdf

Reconciliation: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4872pcs.txt.pdfhttp://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4872pcs.txt.pdf