Health Care Reform … what it means to you, your company, your health plan, and your insurer.

By: David Leo, President of Western Mutual Insurance® & WMI TPA®

On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act into law. Although there is little agreement as to how that law and the related Health Care and Education Reconciliation Act will affect what has been broadly dubbed "health care reform," one thing is certain: the sweeping effects of these laws will be unparalleled (assuming they are not repealed or later modified). Although significant regulatory guidance will be forthcoming over the next several months and years, here are some key provisions and their effective dates that WMI is closely watching. Because the grandfathering provisions of the law are so restrictive and unfeasible, they have been ignored for the purposes of this summary. This article is not intended to provide legal advice or an exhaustive overview of the law.

2010

- Tax credits are available for qualified small employers to purchase health insurance coverage. The employer must have no more than 25 full-time employees and have average annual wages of less than $50,000.
- Federal review of health insurance premium rates begins.
- All group health plans must comply with the IRS §105(h) rules that prohibit discrimination in favor of highly compensated individuals.
- Lifetime limits on the dollar value of benefits for any insured are prohibited (but annual limits for "non-essential" benefits allowed until 2014).
- Insurance companies and self-funded plans are prohibited from imposing preexisting condition exclusions for children 18 and under.
- Insurance companies are required to provide coverage for married and unmarried dependents up to age 26.
- Health insurance policy rescissions are prohibited (except for cases of fraud or intentional misrepresentation).
- New internal and external review procedure standards are established for claim determinations.
- Coverage of immunizations and certain preventive services is mandated with no cost sharing.
- Coverage of emergency services at in-network benefit level is mandated regardless of provider status.
- A tax on pharmaceutical manufacturers and importers of branded prescription drugs is imposed.

2011

- Minimum loss ratio requirements for insurers are established and premium rebates must be paid to policyholders if minimum loss ratios are not met.
- Employers are required to disclose the cost of employer-sponsored health benefits on employee W-2s.
- Flexible Spending Account ("FSA") reimbursements for over-the-counter medicines is disallowed unless prescribed by a doctor, and new "simple cafeteria plans" are established for small employers (generally 100 or fewer employees) that these employers can adopt in exchange for satisfying minimum participation and contribution requirements.
- The tax on distributions from health savings accounts ("HSAs") that are not used for qualified medical expenses is increased from 10% to 20%.
- A new public long-term care program is established. Employers are required to enroll employees unless they actively opt out. Benefits start five years after people begin paying a fee for coverage.
- Group health plans and insurers are required to periodically provide a summary of benefits and a coverage explanation to all applicants and insureds. Employers and health plans that fail to do so will face fines of up to $1,000 per failure.
- A funding schedule is implemented for community health centers to provide care for many low income and uninsured people.

2012

- Group health plans and insurers are required to annually submit benefit information to the Secretary of the Department of Health and Human Services.

- A new federal premium tax on fully-insured and self-insured group health plans is implemented to fund research programs.

2013

- FSA contributions for medical expenses are limited to $2,500 per year (indexed for inflation).
- A 2.3% excise tax on medical devices is imposed.
- The Medicare Hospital Insurance tax on self-employed individuals and individuals making $200,000 per year ($250,000 for couples) is increased from 1.45% to 2.35%. A new 3.8% Medicare contribution on certain unearned income (*e.g.*, dividends, interest) from individuals meeting those income thresholds is levied.
- Employers are required to notify their employees of the existence of the state-based insurance "exchange."

2014

- Annual taxes on private health insurers based on net premiums are imposed.
- Insurance companies are required to offer coverage in all markets on a guarantee issue and a guarantee renewable basis.
- The prohibition on insurance companies and self-funded plans from imposing preexisting condition exclusions is extended to adults (age 19 and older).
- Strict rating requirements and restrictions are imposed on individual health insurance policies and fully-insured group policies with 100 lives or less. "Modified community rating standards" are mandated with premium variations only allowed for age (3 to 1), tobacco use (1.5 to 1), family composition, and geographic regions. Wellness discounts are allowed under specific circumstances.
- The 2010 prohibition on annual dollar limits is extended to "non-essential" benefits.
- State "exchanges" are to become operational to facilitate the sale of qualified benefit plans to individuals and small employer groups.
- Employers are required to provide insurance vouchers to certain employees.
- Standards for qualified coverage, including mandated benefits, cost-sharing requirements, out-of-pocket limits and a minimum actuarial value of 60% are established.
- Premium assistance tax credits for non-Medicaid eligible individuals with incomes up to 400% of federal poverty line ("FPL") to buy coverage through the exchange are implemented.
- Medicaid eligibility level is increased to 133% of FPL. States are required to offer premium assistance to certain Medicaid beneficiaries who are offered employer-sponsored coverage.
- The employer mandate is effective for employers with 51 or more employees. An employer doesn't have to offer coverage, but if the employer offers coverage and has at least one full-time employee receiving a premium tax credit, the employer must pay a fee of $2,000 per full-time employee or $3,000 per employee receiving the tax credit (whichever is less). If the employer does not offer qualified coverage and one or more employees receives a premium assistance tax credit, the employer must pay a fine of $2,000 per year per full-time employee (with the first 30 employees exempt). Part-time employees are counted based on the aggregate number of hours of service.
- Employers with 51 or more full-time employees are prohibited from imposing a waiting period of more than 90 days before an employee can enroll in a health insurance plan.
- The individual mandate is effective. All American citizens and legal residents (with a few exceptions) must purchase qualified health insurance coverage The penalty for non-compliance is the greater of a flat dollar amount per person or a percentage of the individual's income, whichever is higher. The percentage penalty in 2014 would be 1%, increasing to 2% in 2015 and 2.5% in 2016. The flat dollar penalty would be $325 in 2015 increasing to $695 in 2016. The employer must provide coverage documentation to the IRS and to the covered individual.
- Employers of 200 or more employees must auto-enroll new employees into a health insurance plan unless they otherwise opt out. (Note: The effective date of this provision is unclear and may depend on issuance of regulations.)

2018

- Implements a 40% excise tax on insurers of employer-sponsored "Cadillac" health plans that offer generous levels of coverage.

If you have questions about this article or would like to discuss your company's insurance program, please feel free to contact me. If you would like to learn more about how WMI can meet your company's insurance needs, please contact our Marketing Department at (800) 748-5340. I would also invite you to visit our website at www.westernmutualinsurance.com for other interesting articles and helpful information about group health insurance.