

Comprehensive health care reform legislation becomes law

President Barack Obama on March 23 signed into law comprehensive health care reform legislation that raises nearly \$400 billion over 10 years through tax increases on high-income individuals, excise taxes on high-cost group health plans, and new fees on selected health care-related industries. The Patient Protection and Affordable Care Act was approved by the House on March 21 and the Senate last December 24.

Provisions that take effect immediately

Most notable among those provisions that take effect on the date of enactment is the annual fee on pharmaceutical manufacturers and importers of branded prescription drugs (including certain biological products). The aggregate annual fees imposed on covered entities will be \$2.3 billion. The fee will first be payable in 2010 with respect to sales in 2009.

Other tax provisions that take on March 23 will:

- Limit the special deduction for Blue Cross Blue Shield organizations under section 833 in the case of organizations with a low medical loss ratio (effective for taxable years beginning after December 31, 2009);
- Provide a tax credit for small businesses that offer health coverage to their employees;
- Impose additional compliance and reporting requirements on section 501(c)(3) hospitals (generally, the requirements apply to taxable years after the enactment date, with the exception of the community needs assessment for years beginning two years after the date of enactment);
- Commission a study and report on the effect of the new law on veterans' health care;
- Provide an income exclusion for specified Indian health benefits;
- Provide an exclusion from gross income for assistance provided to participants in state student loan repayment programs for certain health professionals (effective for taxable years beginning after December 31, 2008);
- Make the adoption credit refundable, increase the credit amount, and extend the credit through 2011 (effective for taxable years after December 31, 2009); and
- Provide a tax credit to certain businesses that that make a qualified investment in acute and chronic disease research during 2009 or 2010 (effective for taxable years after December 31, 2008).

Other tax increases and fees – such as increased Medicare taxes on higher-income individuals, the annual fees on health insurance providers and medical device manufacturers, and the excise tax on “Cadillac” plans – become effective in later years. An overview of all the revenue-provision effective dates in the new law is available from Deloitte Tax LLP.

URL: http://deloitte.12hna.com/newsletters/2010/TNV/supp/a100323_1supp.pdf

Reconciliation measure update

The supplemental reconciliation measure that passed the House on March 21, which contains a package of modifications to the just-enacted health care reform law designed to accommodate House concerns, has been sent to the Senate for consideration.

Plans are under way to move the agreement through the Senate this week under an expedited procedure that will prevent it from being filibustered and allow for its consideration and passage in by a simple majority.

Among the significant provisions that would be added to the new law by the reconciliation bill are:

- An unearned income Medicare contribution levied on income from interest, dividends, capital gains and other types of investment income;
- A delay in the effective date of industry fees;
- A delay in the effective date for the excise tax on high-cost Cadillac plans and an increase in the premium thresholds for plans that would be subject to the tax;
- Codification of the economic substance doctrine; and
- A provision making “black liquor” ineligible for the cellulosic biofuel producer credit under section 40(b).

Although House leaders expect the Senate to pass this agreement promptly and without modification, changes and delay still are possible. Nonetheless, Democratic leaders hope to have a completed bill to send to the president by their spring recess, which begins on March 29.

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