



Health Care Reform Legislation Moves Forward

Health care reform proposals have now been released by all of the House and Senate committees of jurisdiction over health reform. While considerable actions still need to be taken over the next few months, President Obama has remained committed to enacting health reform legislation this year.

Background

Senate Finance Committee Chairman Max Baucus (D-MT) recently released the “Chairman’s Mark” on health care reform – i.e., his idea of what the committee should focus on during the markup. This markup is planned to start the week of September 21st. With this latest proposal, all five committees of jurisdiction have now weighed in. Earlier this year the House released its Tri-Committee bill, as well as markups from the three House committees of jurisdiction. The Senate HELP Committee also released its bill a few months ago. The future legislative process is uncertain, but President Obama remains focused on enacting health reform legislation this year.

Overview of Reform Legislation

Although details may vary, there are a number of key elements included in the health care reform proposals –

- individual mandate
- premium subsidies for lower-income individuals
- employer “play or pay” mandate
- individual and small group insurance market reform
- insurance Exchanges or Gateways for individuals and small employers
- expanded Medicaid eligibility
- Medicare payment reform and quality initiatives.

There are also significant differences among the proposals. For example, although all of the proposals provide for an Exchange or Gateway from which individuals and small employers could purchase coverage, the House and Senate HELP bills also include a public plan option that would be offered alongside private plans. Instead of a public plan, the Chairman’s Mark includes federal funding for cooperative plans that would be managed by the members rather than the federal or state government.

All of the proposals contain some type of “play or pay” mandate for employers, but the provisions vary greatly. The House Tri-Committee bill provides for an employer assessment of 8% of wages, while the Senate HELP bill would impose a per employee assessment of \$750 for each full-time employee and \$375 for each part-time employee. The impact on employers would vary widely depending on salary levels and full-time versus part-time staffing. The Chairman’s Mark includes a “free rider surcharge” under which an employer would be charged an assessment based on the number of its employees who receive a tax subsidy to purchase coverage from the Exchange rather than from the employer.

BUCK COMMENT. *With the framework of the play or pay requirements included in the various proposals, employers now have sufficient detail to start quantifying the potential impact of these requirements on their programs and to gauge the relative impact of each proposal on their programs and employees.*

The financing of health reform is also an area in which the proposals vary significantly. The House Tri-Committee legislation includes a new income tax on high-income individuals, as well as a federal premium tax on insured and self-funded plans. The Chairman’s Mark includes assessments on health insurers and third party administrators, as well as on other health care industry groups, such as clinical labs and manufacturers of pharmaceuticals and medical devices.

The Chairman’s Mark also includes an excise tax on health plans that have a value in 2013 in excess of \$8,000 for individual coverage and \$21,000 for family coverage. In determining the value of coverage, the limits apply to the combined value of medical, dental and vision coverage and health care spending accounts.

BUCK COMMENT. *This excise tax on health plans has been reported as only applying to “gold plated” medical plans. However, because it would not be inflation adjusted until 2014 and because the value of dental coverage and health care spending accounts would have to be added in, the excise tax could apply much more broadly when it goes into effect in 2013. Buck has found that common plan designs offered by many employers today would be subject to this excise tax in 2013 unless the plan designs are modified.*

Buck has prepared a very high level [comparison](#) of the current House and Senate proposals that summarizes the key features. This comparison will be updated as the legislation moves through Congress.

Conclusion

While the future of national health reform legislation is still very uncertain, there are key elements that are common to all the proposals. Employers should review these proposals to determine the impact on their employees and programs. Employers are now also able to review the impact of assessments under the play or pay mandates, as well as the impact of provisions such as the excise tax on health plans in the Chairman’s Mark, and offer their comments to the national reform debate.

Buck’s consultants are available to answer any questions you have on these proposals and the potential impact on your programs and employees.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.