

For more
information, please
contact:

Suzanne J. Scrutton
sjscrutton@vorys.com
614.464.8313

Jolie N. Havens
jnhavens@vorys.com
614.464.5429

**Jennifer Bibart
Dunsizer**
jbdunsizer@vorys.com
614.464.5631

The Patient Protection and Affordable Care Act (the “PPACA”) was enacted on March 23, 2010, as amended by the Health Care and Education Reconciliation Act, enacted March 30, 2010. OPRA members are uniquely impacted by the PPACA as both healthcare providers and employers. Vorys is pleased to provide OPRA members with the following summary of PPACA mandates which are in effect now. If you have questions, please contact an author of this alert or your Vorys relationship attorney.

Event/ Provision	Effective Date	Description/Comments
Health Plan Grandfathered Status	Now	A grandfathered plan (GFP) is a health plan that was in existence on 3/23/2010 (a plan not in existence at that time is a non-grandfathered plan or NGFP). Knowing a plan's grandfathered status is essential to compliance with reform mandates because one set of mandates and consumer protections applies to GFPs and NGFPs, while a second set only applies to NGFPs. GFP status is indefinite, but cannot be regained once lost. Many routine plan design changes will result in loss of GFP status. Special rules exist for insured collectively-bargained plans. New notice requirement for participants exists for plans claiming GFP status.
Early Retiree Reinsurance Program	Now	Program reimburses 80% of early retiree (age 55-64) claims between \$15,000 and \$90,000. Program ends 1/1/2014 or when \$5 billion dollars allocated for program is exhausted. Application process required prior to participation.
Small Business Health Care Tax Credit	1/1/2010	Credit is available for certain small, IRC §501(c) employers with fewer than 25 full-time equivalent (FTE) employees and average annual wages less than \$50,000 per FTE, provided employer pays at least 50% of premium cost for all enrolled employees.
Coverage of Adult Children Under Age 26	Plan years starting on or after 9/23/2010	Plan may define child relationships to be covered, but once covered, coverage must be provided until age 26. Coverage required even if child is married, employed*, and not financially dependent upon or residing with the employee. Cost of coverage cannot vary from cost of coverage for minor children (no adult child surcharge). Coverage for certain child relationships is non-taxable to the employee until the end of the year in which the child turns age 26. *Until 2014, GFPs need only offer health benefits if the adult child is ineligible for other non-parental, employment-based coverage.
Prohibition on Pre-Existing Condition Exclusions	Plan years starting on or after 9/23/2010	No pre-existing condition exclusions can be applied to children under age 19 relative to covered conditions. However, a plan can exclude coverage for specific conditions. *Starting in 2014, no pre-existing condition exclusions can be applied to any participant.

Prohibition on Annual/Lifetime Dollar Limits on Essential Benefits	Plan years starting on or after 9/23/2010	Prohibition does not apply to health flexible spending accounts (health FSAs), health savings accounts (HSAs), and health reimbursement arrangements (HRAs) integrated with employer plan in compliance with reform mandates (status of stand-alone HRAs for active employees unclear). No clear definition of “essential benefits.” Dollar equivalents (such as visit limits) appear permissible. The entire exclusion of a benefit is not a lifetime limit. Creates a new notice requirement as to removal of lifetime limits. Establishes permissible transitional per-individual annual dollar limits through 12/31/2013 (no annual dollar limits whatsoever starting in 2014). “Mini-med” plans survive temporarily through a waiver process.
Insurer Rebates	Plan years starting on or after 9/23/2010	Insurers will provide the government with annual reports of loss ratios and overhead expenses. Premium rebates are technically required if overhead expenses (expenses other than health claims and wellness initiatives) exceed 15% of premiums in the large group market, 20% of premiums in the small group and individual markets.
Prohibition on Retroactive Coverage Rescission	Plan years starting on or after 9/23/2010	As a general rule, health coverage cannot be retroactively rescinded. Limited exception due to fraud/material misrepresentation of insured – requires 30 days’ advance notice of termination and appeal right. Termination of coverage for failure to pay premium is not rescission. Can prospectively eliminate coverage for ineligible individuals.
First Dollar Coverage of Preventative Services	Plan years starting on or after 9/23/2010	*NGFPs only. Requires coverage of specific preventative services. Preventive care must be provided in-network on a first dollar basis (without a copay, coinsurance, or deductible), but a plan may impose cost sharing on out-of-network preventive care or exclude it altogether.
Application of	Plan years starting on or after 9/23/2010	*NGFPs only. Applies nondiscrimination prohibition regarding highly-compensated employees to insured health benefits.
New Appeals Standards	Plan years starting on or after 9/23/2010	*NGFPs only. Requires additional appeals procedures, including an external appeals process, and that coverage be maintained while an appeal is pending.
New Participant Protections	Plan years starting on or after 9/23/2010	*NGFPs only. Restricts limits on obstetrical/gynecology referrals and selection of primary care physicians and pediatricians – rights to be included in summary plan description. Special rules for emergency care.

This is for general information purposes and should not be regarded as legal advice.

IRS CIRCULAR 230 DISCLOSURE: In order to ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of (i) avoiding penalties that may be imposed under the U.S. Internal Revenue Code or (ii) promoting, marketing, or recommending to another person, any transaction or other matter addressed herein.