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BENEFIT INFORMATION RELEASE
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AUGUST 2009
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Health Care Reform

Over the past few weeks there has been an extraordinary amount of press regarding health care reform. While there are many other topics we could discuss in our August newsletter, we believe the focus should be on the reform legislation that is seeking to reshape health care as we know it.

For employers, benefit managers, benefit consultants and employees, the volume is definitely increasing on forthcoming healthcare reform. Those of us in the industry do believe there will be reform passed sometime in 2009 or early 2010. However, whatever is passed will not take effect until 2013 or 2014, so we still must focus on your current health care programs. There is a tremendous amount of information that has to be reviewed by our legislators before any passage.

Noted in this newsletter is the following:

1. *Synopsis of the Current House Democratic Health Care Bill.*
2. *Synopsis of the Current Senate Democratic Health Bill.*
3. *Synopsis of the Bi-Partisan Senate Bill*
4. *Synopsis of the House Republican Bill.*

During the Congressional recess this month, we hope that you will take the time to let your elected officials know your thoughts on these programs.

Mills Benefit Group, LLC Pre-4th Quarter Office Retreat

Our office will close at noon on
Wednesday, August 19 and
reopen on Monday, August 24

SYNOPSIS OF THE CURRENT HOUSE DEMOCRATIC HEALTH CARE BILL

Who would be covered? Around 94 percent of non-elderly residents (those not under Medicare, which kicks in at age 65) compared with 81 percent today.

Cost: About \$1.5 trillion over 10 years.

How it would be paid for: Revenue-raisers include \$544 billion over the next decade from new income taxes on single people making more than \$280,000 a year and couples making more than \$350,000; \$37 billion in business tax increases; about \$500 billion in cuts to Medicare and Medicaid.

Requirements for individuals: Must have insurance, enforced through tax penalty with hardship waivers. Penalty is 2.5% of income.

Requirements for employers: Must provide insurance to their employees or pay a penalty of 8 percent of payroll. Companies with payroll under \$250,000 annually are exempt. Employers could apply for a two-year exemption.

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Subsidies: Individuals and families with annual income up to 400 percent of poverty level (\$88,000 for a family of four) would get sliding-scale subsidies to help them buy coverage, beginning in 2013.

How you would choose your health insurance: Through a new Health Insurance Exchange open to individuals and, initially, small employers; it could be expanded to large employers over time. States could opt to operate their own exchanges if they follow federal rules.

Benefit package: A committee would recommend an "essential benefits package" including preventive services, mental health services, oral health and vision for children; out-of-pocket costs would be capped. The new benefit package would be the basic benefit package offered in the exchange and over time would become the minimum quality standard for employer plans. Insurers wouldn't be able to deny coverage based on pre-existing conditions.

Government-run plan: A new public plan available through the insurance exchanges would be set up and run by the secretary of Health and Human Services. Democrats originally designed the plan to pay Medicare rates plus 5% to doctors, but under a deal with fiscal conservatives, the HHS secretary would instead negotiate rates with providers.

Other provisions: Medicaid, the federal-state insurance program for the poor, would be expanded starting in 2013 to cover all non-elderly individuals with incomes up to 133 percent of the federal poverty level (\$14,404).

DEMOCRATIC SENATE BILL

Who would be covered? 97 percent of Americans.

Cost: About \$615 billion over 10 years, but it's only one piece of a larger Senate bill.

How it would be paid for: Another panel --- the Senate Finance Committee --- is responsible for figuring out how to cover costs.

Requirements for individuals: Must have insurance, enforced through tax penalty with hardship waivers.

Requirements for employers: Those who don't offer coverage would pay a penalty of \$750 a year for each full-time worker. Businesses with 25 or fewer workers are exempt.

Subsidies: Available up to 400 percent poverty level, or \$88,000 for a family of four.

How you would choose your health insurance: Individuals and small businesses could purchase insurance through state-based purchasing pools called American Health Benefit Gateways.

Benefits package: Health plans must offer a package of essential benefits recommended by a new Medical Advisory Council. No denial of coverage based on pre-existing conditions.

Government-run plan: A robust new public plan to compete with private insurers. The plan would be run by the government but would pay doctors and hospitals based on what private insurers now pay.

Other provisions: Would create a new voluntary insurance program that would provide a modest daily cash benefit to help disabled people stay in their own homes instead of going into nursing homes.

BIPARTISAN SENATE PROPOSAL

Who would be covered? Around 97 percent of Americans. Illegal immigrants would not receive coverage.

Cost: Around \$1 trillion over 10 years.

How it would be paid for: Possible sources include cuts to Medicare and Medicaid; a tax as high as 35 percent on very high-cost health insurance policies; a requirement for employers to pay into the Treasury for their employees who get their insurance through public programs or receive government subsidies to help pay premiums. Looking to raise \$90 billion by taxing health insurance companies as much as 35 percent on policies valued at \$25,000 or more.



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Requirements for individuals: Expected to include a requirement for individuals to get coverage.

Requirements for employers: In lieu of requiring employers to provide coverage, lawmakers are considering a "free rider" penalty based on how much the government ends up paying for workers' coverage.

Subsidies: No higher than 300 percent of the federal poverty level (\$66,150 for a family of four).

How you choose your health insurance: Through state-based exchanges.

Benefit package: The government wouldn't mandate benefits but would set four benefit categories --- ranging from coverage of around 65 percent of medical costs to about 90 percent --- and insurers would be required to offer coverage in at least two categories. No denial of coverage based on pre-existing conditions.

Government-run plan: With Republicans opposed to a government-run plan, the Finance Committee group is looking at a compromise that would instead create nonprofit member-owned co-ops to compete with private insurers.

Other provisions: Everyone at 100 percent of poverty would be eligible for Medicaid. Between 100 and 133 percent, states or individuals have the choice between coverage under Medicaid or a 100 percent subsidy in the exchange. The expansion would be delayed until 2013, a late change to save money --- the start date had been 2011.

HOUSE REPUBLICAN PLAN

Who would be covered? Aims to make insurance affordable and accessible to all, but provides no estimates about how many additional people would be covered.

Cost: Unknown.

How it would be paid for: No new taxes are proposed, but Republicans say they want to reduce Medicare and Medicaid fraud.

Requirements for individuals: No mandates.

Requirements for employers: No mandates; small business tax credits are offered. Employers are encouraged to move to "opt-out" rather than "opt-in" rules for offering health coverage.

How you choose your health insurance: No new purchasing exchange or marketplace is proposed. Health savings accounts and flexible spending plans would be strengthened.

Subsidies: Tax credits are offered to "low- and modest-income" Americans. People who aren't covered through their employers but buy their own insurance are allowed to take a tax deduction. Low-income retirees younger than 65 (the eligibility age for Medicare) would be offered assistance.

Benefit package: Insurers would have to allow children to stay on their parents' plan through age 25.

Government-run plan: No public plan

Changes to Medicaid: People eligible for Medicaid would be allowed to use the value of their benefit to purchase a private plan.

—Associated Press—



HIPAA Goes HITECH in Stimulus Bill

Included in the economic stimulus legislation are provisions making important changes to the HIPAA privacy and security rules. The changes are included within the Health Information Technology for Economic and Clinical Health Act (HITECH) provisions of the American Recovery and Reinvestment Act of 2009. The changes are generally effective as of Feb. 17, 2010. Key new requirements include the following:

Currently, only covered entities, such as health care providers and health plans, are directly subject to the HIPAA privacy and security rules. Business associates — entities that perform a function on behalf of a covered entity that involves the use or disclosure of protected health information — were not previously subject to HIPAA.

Rather, their only liability was on a contractual basis to the covered entity pursuant to the business associate agreement. That is changing under HITECH.

Beginning next year, the HIPAA privacy and security rules will apply to business associates in a similar manner as they apply to covered entities.

Currently, if there is a breach of the privacy or security rules, the covered entity is required to mitigate any harm caused by the breach, which may, in certain circumstances, include notification. There is no other affirmative obligation to provide notice of a breach. Under HITECH, covered entities must notify individuals within 60 days after discovery of a breach of unsecured protected health information. Any such information that is transmitted electronically through encryption and any that is destroyed under rules prescribed by the U.S. Department of Health and Human Services is not considered unsecured, and it is not subject to the new notification rules, even if compromised.

In addition to notifying individuals, HHS must be notified annually of any breaches. If the

breach involves 500 or more individuals, the agency must be notified immediately and will identify the covered entity on its Web site. Further, the covered entity must notify the media (that's right — alert the media!) if the covered entity reasonably believes that a breach of unsecured protected health information affects more than 500 individuals in a state or jurisdiction. Business associates who discover a breach must notify the covered entity, who then must notify the affected individuals and HHS, and if necessary, the media.

HITECH increases individuals' rights under HIPAA. For example, individuals will now have the right to request and receive their protected health information in electronic form if the covered entity maintains the information as an electronic health record.

Further, covered entities maintaining protected health information as an electronic health record must supply requesting individuals an accounting of the uses and disclosures of those records for treatment, payment and health care operations purposes during the prior three years.

HITECH significantly strengthens enforcement of HIPAA. Civil penalties are increased and will now vary depending on whether the breach was innocent, due to reasonable cause, or due to willful neglect. While there is still no private cause of action for HIPAA violations, HITECH provides a mechanism for individuals to obtain a portion of civil monetary penalties recovered by HHS.

What do employers need to do in response? HIPAA privacy and security policies and procedures will need to be updated, as well as the individual notice of privacy practices. Further, new business associate agreements will be required, as well as additional training of the work force.

Source:

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July 13, 2009*