

White Paper

AFFORDABLE CARE ACT:

KEY PROVISIONS FOR EMPLOYERS

June 2018



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Employers that offer or provide group health coverage to employees are responsible for complying with many provisions under the Affordable Care Act (ACA). Although most of the provisions apply to all types of plans, some provisions are limited to certain types of plans, such as “small group” insurance policies, “large group” insurance policies, and/or self-funded (uninsured) plans.

The chart provided below lists each of the most-common ACA provisions affecting employers, the effective date, and the type of plan(s) to which the provision applies.

PROVISION	APPLIES TO PLAN YEARS STARTING ON OR AFTER:	INSURED PLANS		SELF-FUNDED
		SMALL GROUP	LARGE GROUP	
2010 – 2011				
Eligibility for children up to age 26	9/23/2010	Yes ⁽¹⁾	Yes ⁽¹⁾	Yes ⁽¹⁾
Restricted annual dollar limits on Essential Health Benefits ⁽²⁾	9/23/2010	Yes	Yes	Yes
No lifetime dollar limits on Essential Health Benefits	9/23/2010	Yes	Yes	Yes
Selection of any available network PCP	9/23/2010	NGF	NGF	NGF
No pre-authorization/referral requirements for OB/GYN care	9/23/2010	NGF	NGF	NGF
Parity between in-network and out-of-network emergency benefits	9/23/2010	NGF	NGF	NGF
No pre-existing condition exclusions (if under age 19)	9/23/2010	Yes	Yes	Yes

⁽¹⁾ Prior to PY2014, a grandfathered plan was permitted to exclude a child if eligible for other group coverage as an employee or spouse.

⁽²⁾ Certain exceptions were available through PY2013 (e.g., phased-in elimination of limits; HHS waivers for certain plans).

Note: State insurance laws may impose additional requirements on policies issued in the Small Group or Large Group insurance market. In most cases, state laws apply only to policies issued in that state.

“NGF” = Nongrandfathered plan only.

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PROVISION	APPLIES TO PLAN YEARS STARTING ON OR AFTER:	INSURED PLANS		SELF-FUNDED
		SMALL GROUP	LARGE GROUP	
2010 – 2011				
Coverage for preventive services without cost-sharing ⁽³⁾	9/23/2010	NGF	NGF	NGF
No coverage rescissions (except fraud or misrepresentation)	9/23/2010	Yes	Yes	Yes
No discrimination in favor of highly-compensated employees (insured plans)	9/23/2010	DELAYED (rules pending)	DELAYED (rules pending)	§ 105(h) rules apply
Medical Loss Ratio (MLR) standards	Fixed Date: Calendar Year 2011	Yes	Yes	No
No pretax reimbursement for non-prescribed OTC meds (except insulin)	Fixed Date: 1/1/2011	Yes	Yes	Yes
Revised appeals and review procedures	Staggered	NGF	NGF	NGF
2012				
W-2 reporting of health coverage cost (info only; no tax) Exempt: Employers that filed fewer than 250 W-2s prior year	Fixed Date: Calendar Year 2012	Yes	Yes	Yes
Summary of Benefits and Coverage (SBC)	Open Enrollment on/after 9/23/2012	Yes	Yes	Yes
Comparative Effectiveness Research (PCORI Fee) (2012 – 2019)	Plan Year ending on/after 10/1/2012	Yes	Yes	Yes
2013				
Health Care FSA Limit \$2,500 per plan year ⁽⁴⁾	1/1/2013	n/a	n/a	Yes (HFSA)

⁽³⁾ Plans based on provider networks may impose cost-sharing on out-of-network preventive services.

⁽⁴⁾ Increased to \$2,550 for plan years beginning in 2015 and 2016, and \$2,600 for plan year 2017, and \$2,650 for plan year 2018.

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		SMALL GROUP	LARGE GROUP	
2014				
No annual dollar limits on Essential Health Benefits (EHBs)	1/1/2014	Yes	Yes	Yes
Coverage for participants in clinical trials	1/1/2014	NGF	NGF	NGF
Limits on out-of-pocket maximums for EHBs ⁽⁵⁾	1/1/2014	NGF	NGF	NGF
No discrimination based on health provider	1/1/2014	NGF	NGF	NGF
No pre-existing condition exclusions (regardless of age)	1/1/2014	Yes	Yes	Yes
90-day limit on waiting periods	1/1/2014	Yes	Yes	Yes
Coverage of all Essential Health Benefits ⁽⁵⁾	1/1/2014	NGF	n/a	n/a
Adjusted Community Rating ⁽⁵⁾	1/1/2014	NGF	n/a	n/a
Transitional Reinsurance Program Fee (2014 – 2016) ⁽⁶⁾	1/1/2014	Yes	Yes	Yes
Wellness Programs (updated HIPAA regulations)	1/1/2014	Yes	Yes	Yes

⁽⁵⁾ State insurance laws may permit renewing certain “small group” policies without adopting this provision. Often referred to as “grandmothering,” consult a local broker or health insurer for state-specific details.

⁽⁶⁾ Applies only to plans that provide Minimum Value coverage (except prescription drug-only plans). Self-administered self-funded plans (e.g., certain union plans) are exempt for 2015 and 2016.

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PROVISION	EFFECTIVE	EMPLOYERS		
2015				
Employer Shared Responsibility Provision: Employer Reporting Requirements	Fixed Date: Tax Year 2015	<p>§ 6055 reporting requirement applies to employers that sponsor a self-funded health plan providing minimum essential coverage.</p> <p>§ 6056 reporting requirement applies to employers with 50 or more full time equivalent (FTE) employees (measured in prior year).</p>		
Employer Shared Responsibility Provision: Coverage Offer Requirements (“Play or Pay”)	Fixed Date: 1/1/2015 ⁽⁷⁾	Employers with 50 or more full-time-equivalent (FTE) employees (measured in prior year) may be subject to penalty for failure to offer health coverage to full-time employees.		
PROVISION	EFFECTIVE	SMALL GROUP	LARGE GROUP	SELF-FUNDED
FUTURE				
40 percent Excise Tax on High-Cost Health Coverage (Cadillac Tax)	Fixed Date: 1/1/2022	Yes	Yes	Yes

⁽⁷⁾ Certain employers were eligible for Transition Relief to avoid penalties for part or all of 2015 (and part of 2016, in some cases) provided that they met specific criteria set forth in IRS regulations (<http://www.gpo.gov/fdsys/pkg/FR-2014-02-12/html/2014-03082.htm>). Examples include certain employers with 50 – 99 FTEs and/or certain employers with non-calendar year plans.

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