

December 31, 2009

Health Reform Bill Passed in the Senate

On December 24, 2009, the U.S. Senate passed their version of a health reform bill by a vote of 60-39. A conference committee will be working after Congress reconvenes in early January to resolve differences between the Senate and the House versions, with a compromise bill expected to face another vote in each chamber in early 2010. The Senate bill would require employers with more than 50 employees to provide health insurance coverage to their employees. Employers that fail to offer affordable health insurance coverage would pay a penalty of up to \$750 per employee, depending upon the size of the employer's payroll (most businesses with 50 or fewer employees would be exempt from such penalties). To encourage small employers to offer health coverage, a 25% tax credit would be available to qualifying small employers starting next year. The Senate bill would allow small businesses to form "buying pools" to negotiate with health insurers and purchase lower cost health insurance plans.

The Senate's health reform legislation would also impose a 40% tax on what has been referred to as "Cadillac" health plans valued at more than \$8,500 for individuals and \$23,000 for families. Under the Senate's bill, individuals who don't receive health care benefits from their employers would be required to purchase health insurance coverage or face a fine (starting at \$95 a year in 2014 and rising up to \$750 or 2% of their income, whichever is higher, by 2016, with a cap at the value of a basic insurance plan). A hardship exemption would be available for certain individuals and Medicaid would be available to families with incomes up to 133% of the poverty level (e.g., for a family of four earning about \$29,000 per year).

The legislation would create a health insurance exchange designed to make it easier for small businesses, self-employed individuals, and unemployed workers to pool resources and purchase affordable health insurance plans. Low- and middle-income families purchasing health insurance through the exchange would qualify to receive a federal health care subsidy to help pay their premiums. The penalties that are paid by employers that don't provide health coverage to their employees and by individuals who do not purchase health coverage, along with a proposed spending cut of nearly \$500 billion over the next 10 years for Medicare and Medicaid, would fund the health care exchange and subsidy program.

In addition, the Senate bill would limit total annual out-of-pocket expenses and would prevent insurance companies from denying coverage for pre-existing conditions (to be phased in through 2014) or charge higher premium rates based on a person's gender or medical history. While the Senate bill allows families a choice in terms of dental coverage, the House bill would require families to purchase their children's dental coverage through a medical insurance company.

A link to a more detailed summary of the bill and to a comparison with the House bill can be found on the [RIBGH website](#).

COBRA Subsidy Law Extended and Expanded

An extension and expansion of a COBRA subsidy law that was set to expire on December 31, 2009, was signed by President Obama on December 21, 2009, and includes new compliance obligations for employers. The key provisions of the COBRA subsidy extension include:

- An eligible individual who was entitled to receive a 65-percent subsidy for continuation coverage premiums for a period of up to nine months (under the original law) can now receive a subsidy for up to 15 months.
- The subsidy eligibility period has been expanded to include the period that begins with Sept. 1, 2008, and ends with Feb. 28, 2010 (formerly Dec. 31, 2009). Another change is that the new rule does not require that COBRA coverage begin by the end of the period (February 28). Instead, an individual is considered eligible for the subsidy as long as the COBRA qualifying event (involuntary termination of employment) occurs by Feb. 28, 2010, and is entitled to COBRA coverage as a result of that event.
- A retroactive period of 60 days from the enactment date, or up to February 17, 2010, is provided for payment of premiums by an eligible individual whose subsidy period expired on November 30, 2009.
- **A special notice outlining these changes must be provided by employers by February 17, 2010, to all eligible individuals on COBRA on or after October 31, 2009, or those who have been terminated after that date.** A model notice should become available through the U.S. Department of Labor within the next couple of weeks.

For further information on health care news and reform issues, please visit the RIBGH website and review our "[Breaking News](#)" and "[Health Reform Resources](#)" information.

