



ABC Summary of Final Health Care Legislation

H.R. 3590, commonly known as the Health Care Reform bill, was signed into law by President Obama on March 23.

H.R. 4872, referred to as the “reconciliation package,” includes modifications to H.R. 3590 and was sent to the U.S. Senate for action.

On March 25, the Senate passed H.R. 4872. The House is expected to vote on H.R. 4872 before the end of the week. The bill then will be sent to the president for his signature.

Following is a brief summary of how the provisions in these two bills will impact ABC members and their companies.

Merkley Amendment:

- The Merkley Amendment provision was removed from the health care bill, which means all employers in all industries that employ 50 or fewer employees will not be subject to the employer mandates included in the bill.
- In exchange for supporting the bill, the unions reportedly have been guaranteed an up or down vote on the Merkley Amendment at an unspecified later date. ABC will remain on the lookout for that provision and will work to make sure it is defeated.

Employer Mandates (employers with more than 50 employees):

- Effective date: Jan. 1, 2014.
- Imposes a penalty of \$2,000 per full-time employee (defined as working an average of at least 30 hours a week) if the employer fails to offer health insurance coverage and has at least one full-time employee receiving a subsidy for coverage in the health insurance exchange. The first 30 employees are excluded from the payment calculation.
- Imposes a penalty if the health insurance coverage offered by the employer fails to meet minimum standards (coverage with an actuarial value of 60 percent), or if the coverage is deemed “unaffordable” and at least one full-time employee obtains a subsidy for coverage in the health insurance exchange. Coverage is deemed “unaffordable” if the employee share of the employer premium is more than 9.5 percent of modified gross income. The employer is required to pay a

- penalty of \$3,000 per full-time employee receiving a subsidy in the health insurance exchange, or \$750 per full-time employee, whichever is less.
- An employer that offers health insurance coverage is required to offer a free-choice voucher to each employee if the employee's income is less than 400 percent of the federal poverty level, the employee's share of the employer premium is greater than 8 percent and up to 9.8 percent of income and the employee enrolls in the health insurance exchange. The vouchers may be used in the health insurance exchange.

Waiting Period:

- Effective date: Jan. 1, 2014.
- Waiting period cannot exceed 90 days.

Auto Enrollment Requirements:

- Employers with more than 200 employees are required to automatically enroll employees into their health coverage plan. Employees may opt out.
- If an individual opts out and fails to obtain coverage, one of the following penalties will be imposed upon the individual (whichever is greater): \$659 per year (maximum of \$2,085 per family) or 2.5 percent of household income.
- The penalty is phased in between 2014 through 2016: \$95 in 2014; \$325 in 2015; and \$695 in 2016.

Tax Credit for Small Businesses:

- Provides tax credit to small employers that purchase health insurance for their employees (25 or fewer full time employees and average annual wages less than \$50,000).
- From 2010 to 2013, a small employer that contributes at least 50 percent of the total premium cost of a qualified plan is eligible for a tax credit of up to 35 percent of the employee's premium.
- In 2014 and beyond, a small employer that purchases coverage through the health insurance exchange and contributes at least 50 percent of the total premium is eligible for a tax credit of up to 50 percent of the employee's premium. The tax credit will be available for two years.
- A full credit is available to small employers with 10 or fewer employees and annual average wages of \$25,000 or less.

Tax Increases:

- Effective date: Jan. 1, 2013.
- Imposes a 2.35 percent Medicare payroll tax on individuals who earn more than \$200,000 and married couples who earn more than \$250,000.
- Imposes a 3.8 percent tax on investment income on individuals who earn more than \$200,000 and married couples who earn more than \$250,000.

Tax Paperwork:

- Effective date: 2012.
- Businesses will be required to issue Form 1099s to all vendors to which they pay more than \$600 annually for goods and services (e.g., mobile office space, phones, copiers).
- Expands the reporting requirement to all vendors and would include proceeds of more than \$600 for both property and services.
- Under existing law, Form 1099s are issued to service-providing vendors that are not incorporated and that are paid more than \$600 for the services they provide.

High-Cost Plans Excise Tax:

- Effective date: 2018.
- Imposes a 40 percent excise tax on high-cost plans (i.e., plans that cost \$10,200 or more for single coverage and \$27,500 or more for family coverage).
- For employees in high-risk professions, the threshold is for plans valued at \$11,850 (single) and \$30,950 (family).
- Originally, the effective date was 2013, but on Jan. 14 the White House made a deal behind closed doors with union leaders to exempt some of their members from a tax on their high-cost, “Cadillac” plans, until 2018.

Health Insurance Exchanges:

- Effective date: 2014.
- States are required to create Health Benefit Exchanges.
- The exchanges allow small employers and uninsured individuals, as well as those who are not covered by their employer, to purchase qualified coverage.
- Includes subsidies for individuals or families with income between 133 percent and 400 percent of the federal poverty level.

Health Flexible Spending Accounts (FSAs):

- Starting in 2013, there will be a \$2,500 indexed cap on annual health FSA contributions and no tax-free coverage for non prescribed items.