

15 REASONS WHY EMPLOYERS SHOULD CARE ABOUT HEALTH CARE REFORM¹

1. **Just offering coverage alone isn't good enough to satisfy the employer mandate, and contribution requirement includes part-time employees.** The House bill would require employers to pay an 8% payroll tax to the federal government or provide 72.5% toward the cost of an "essential benefits package" for full-time employees and 65% for their families. Contributions must be made for part-time employees, as defined by the new federal Insurance Commissioner. (The same applies to self-funded employers.)
2. **Employers will be forced to offer more expensive coverage.** Both bills will increase costs and reduce flexibility. (The same applies to self-funded employers.) Products must meet minimum benefit levels (actuarial value level and required benefits):
 - No enrollee cost-sharing for "preventive benefits," likely to be defined broadly
 - No lifetime limits on benefits
 - Restrictions on annual limits on benefits (**House** – no annual limits; **Senate** – no "unreasonable" annual limits)
 - No pre-existing condition exclusions for individuals without continuous coverage
 - Mandated dependent coverage (**House** until age 27, **Senate** until age 26) regardless of student status
3. **Rating changes prohibit/limit discounts.** Both bills will prohibit discounts based on health status of the group and limit age discounts in the small employer market. Analyses indicate that this will result in some rates for small employers almost doubling in some states where significant discounts are allowed today.
4. **New taxes in Senate bill** will drive up cost of coverage:
 - \$6.7B annual tax on insurers based on fully-insured market share is not tax deductible and equates to approximately 2.5% increase in premiums. **Tax also applies to insurers' fees for administering self-funded plans.**
 - Excise tax on high-cost plans (valued above \$8,500/\$23,000) is 40%, not tax deductible, and indexed to CPI+1%, meaning more and more plans will pay tax each year. **Tax also applies to employers' self-funded plans.**
5. **Prohibition on reducing benefits for retiree plans in House bill** unless same changes are being made for active employees. (The same applies to self-funded employers.)
6. **Loss of ERISA legal protections.** The House bill would permit lawsuits under state law for employer-sponsored plans offered in the government run Exchange.
7. **Employees will have new legal rights against employers.** Employees could charge their employers with discrimination having to do with health benefits. Such rights would be based upon federal laws such as the Age Discrimination Act, Rehabilitation Act, the Civil Rights Act, the Fair Labor Standards Act, and others. (The same applies to self-funded employers.)
8. **COBRA requirement will increase costs.** The House bill allows former employees to keep COBRA benefits until 2013 when government run Exchanges are operational. (The same applies to self-funded employers.)

¹ The major health care reform bills are H.R.3962 and S. Amdt. 2786. 11/24/09

9. **New employee payroll deduction for new disability/long-term care benefit in both bills.** All employees would be mandated to be auto-enrolled (may opt-out) by an employer, including an automatic deduction of an amount that is actuarially established. (The same applies to self-funded employers.)
10. **Government-run plan in both bills** will likely under-pay providers, exacerbating the cost shift to both insured and self-funded plans.
11. **A weak individual mandate in both bills,** combined with the new insurance rules that include no pre-existing condition exclusion, will result in deterioration in the insurance market and higher costs for both insured and self-funded plans.
12. **Weak cost containment in both bills.** While the focus of reform should be improving quality and controlling costs, there is little in the bills that would reform the delivery system and help control costs for either insured or self-funded plans.
13. **Restrictions on eligibility rules in Senate bill.** Employers with fully insured plans could not impose different eligibility rules for full-time employees based on wages or that have the effect of favoring higher wage employees, even if the rules are based upon other factors such as management category or length of service.
14. **Annual quality reporting in Senate bill. Employers that sponsor self-funded health plans** must do annual quality reporting to HHS and to their employees, and take other steps to prevent hospital readmissions and improve patient safety. Health insurers must also perform this annual quality reporting. Not only will this add an administrative burden for employers and insurers, but it will add costs to coverage.
15. **New external review rights in Senate bill. Employers with self-funded plans** will have to implement new external review procedures consistent with the NAIC Model External Review act, in addition to their current internal appeals processes. Decisions made during the external review are legally binding on plans, but not on enrollees, who could then resort to court action.