HEALTH CARE REFORM 2010

An explanatory summary from Cho Chan, Updated May 2010

The long battle for this Health Care Reform finally came to an end, and the Reform became law in March 2010.

The History

On November 7, 2009, the House passed H.R. 3962 (Affordable Healthcare for America Act) and forwarded to the Senate. Around the similar time, the Senate also passed their S.1796 (America's Healthy Future Act of 2009).

When the House Bill H.R. 3962 arrived, the Senate was considering another House Bill H.R. 3590 (Service Members Home Ownership Tax Act of 2009). For whatever reasons, political or otherwise, the Senate merged the House Health Bill (H.R. 3962) with this Service Members Home Ownership Bill (H.R. 3590). The Bill number H.R. 3590 survived the merger and became the Senate's Health Bill. After much debate and amendment made to the original language came from the House, the Senate passed their Health Bill on December 24, 2009. The Bill passed the Senate was H.R. 3590, and the title of the Senate Bill is: Patient Protection and Affordable Care Act.

However, the **H.R. 3590** (**Patient Protection and Affordable Care Act)** was significantly different from what the House passed, H.R. 3962 (Affordable Healthcare for America Act), therefore, a certain amount of reconciliation are necessary between the Senate and the House before H.R. 3962 and H.R. 3590 can be merged into a final Bill for the President's signature.

Without the January 2010 Massachusetts senatorial election upset, the merging of these two Bills into one may not be difficult. However, with one additional Senator in the Republican side made the "filibuster" possible, and the reconciliation merger impossible.

After nearly two months, the Democrats in the White House and the House came up with a first of it's kind political maneuver. First, the President signed the Senate Bill **(H.R. 3590) Patient Protection and Affordable Care Act into Law (PL 111-148)**. Almost immediately, the House and the Senate passed a fixer Bill, **H.R. 4872** (**Health Care and Education Affordability Reconciliation Act of 2010)**, and submitted to the President for signature. The President signed it into law (**PL 111-152**) in the last week of March, 2010.

In conclusion, to understand the Health Care Reform Law as it is, both the H.R. 3590, PL 111-148 (the Senate version) and the H.R. 4872, PL 111-152 (the fixer-upper) should be read together, side-by-side.

The Summary

The following 4 pages summarized (in an overall manner) 4 areas of vital importance:

- **(1)** Changes for General Application
- **(2)** Changes in the Tax Provisions, and
- **(3)** Changes to Medicare & Retirees' Health Insurance
- **(4)** Others

(1) CHANGES FOR GENERAL APPLICATION

o Effective fall of 2010, health insurance companies will not be allowed to drop any health coverage or cancel any health policy because the policy holder is "sick". Further, insurance companies are barred from "rescinding" coverage and/or health policy except in case of fraud. In reality, "rescinding without fraud" is a breach of contract. The Health Reform Acts merely repeating what's already part of our contract laws.

o Effective fall of 2010, parents of children up to 26 years old will be able to either buy health insurance for them, or cover them under the parent's own group plans.

o Effective fall of 2010, health insurance companies are no longer be allowed to set life- time limit in terms of total dollar amount of coverage for either individual or group plans. Annual coverage cap, to be periodically determined by the Secretary of Health & Human Services, will be allowed however.

o Effective sometime before the end of 2010, all health insurance and/or plans will be required to provide "**preventive care/services**" without cost-sharing from the insured or plan participants. These "preventive care" will include recommended immunizations, preventive care for infants & children, and additional preventive screenings for women.

o Effective from now until 1/1/2014, a temporary Government reinsurance program will be available for employers providing health insurance coverage to retirees over age 55 who are not yet eligible for Medicare. This temporary program will provide up to 80% reimbursement to employers for Retirees' annual medical claims between $15,000 and $90,000.

o Beginning 1/1/2014, anyone fail to acquire adequate insurance coverage will be subject to a penalty. There will be public program(s) to assist individuals who can not afford the insurance.

o Effective 1/1/2014, insurance companies CAN NOT deny coverage due to **pre- existing condition(s)**. Further, insurance companies can no longer use pre-existing condition(s) to exclude minors from coverage in parent's policy. Before 2014, individuals will have options to purchase health insurance through State run "high-risk pool". These State run high-risk pools will also mandate an annual cap of out-of-pocket medical expenses, up to $5,900 for singles and $11,900 for families.

SPECIAL ANNUAL FEES

o From 2011 to 2018, there will be a special annual fee levied against Drug Companies. As a whole (not individual company), this special fee will be $ 2.5 billion for 2011, and will be gradually, annually increased to about $ 4+ billion by 2018.

o From 2014 to 2018, there will be a special fee levied against all Health Insurance Companies including self-insured plans. As a whole (not individually) this special fee will be $ 5 billion for 2014, and will be gradually, annually increased to $14+ billion by 2018.

Although these special fees were targeted at the Drug and Insurance companies, yet it will eventually, magically, pass thru to the tax paying, premium paying citizens at large.

(H.R. 3590; H.R. 4872)

(2) CHANGES IN THE TAX PROVISIONS

- o Health care benefits to be reported on employees' W-2 forms, effective 2011.

- o Penalty for non qualified use of HSA money will be increased to 20%, effective 2011.

- o Tax free contribution to FSA will be limited to $2,500 a year, effective 2013.

- o Prohibit the usage of FSA money for OTC drugs, effective 2011.

- o Medicare tax increase to 3.8% for earnings exceeding $200,000/$250,000, effective 2013.

- o Unearned income, i.e. interest/dividend/annuity/royalty/rent/etc. above certain AGI or income thresholds will be subject to the 3.8% Medicare tax, effective 2013. (Exempt interest & retirement will be excluded)

- o Medical itemized deduction must be more than 10% of AGI, effective 2013. For seniors (65 or older) effective after 2016.

- o Beginning 2014, failure to be insured with adequate coverage will be subject to a penalty equal to the greater of $95 or 1.0% of AGI. Effective 2016, this penalty will be increased to the greater of $695 or 2.5% of AGI.

- o In 2014 when the mandatory insurance law in effect, a refundable tax credit will be offered to low income individuals and/or families. Low income is defined at 100% and 400% of Federal Poverty Level, generally around $11,000 to $44,000 for singles and $22,000 to $88,000 for families. However, amount of credit had not be decided.

- o Employer with 50 or more employees who failed to offer adequate health insurance coverage will be charged a non-deductable penalty fee equals to $2,000 per employees above the first 30 employees, effective 2014.

- o A new 10% excise tax will be levied on indoor tanning services, effective 7/1/2010.

- o A 2.3% exercise tax on sales of medical devices other than eyeglasses, hearing aids, and devices general available at retail to the public, effective 1/1/2013.

- o A new 40% excise tax will be levied on "high cost health plan", defined as plans providing coverage in excess of $10,000 for individuals and $23,000 for families. effective 2013. Because of Union opposition, the coverage thresholds may be revised higher, and the effective date may be pushed to 2018. (Need to be confirmed)

- o Beginning 90 days from enactment until end of 2013, employers with less than 10 workers and average annual wages less than $25,000 will be given a tax credit up to 35% of their total annual healthcare premium costs until the end of 2013. This credit will be reduced for larger employers. It will be 100% phased out for employers with 25 or more employees or average annual wages of $50,000 or more. Beginning 2014, qualified employers may take a tax credit up to 50% of their healthcare costs, and may choose to sign up for one of the programs offered by the State Health exchanges.

(H.R. 3590; H.R. 4872)

(3) CHANGES TO MEDICARE & RETIREES' HEALTH INSURANCE

Medicare (Original Medicare)

Part B income based premium charge, beginning 2011 will be frozen at the same income thresholds for Part B premiums from 2011 to 2019. It is unknown after 2019.

Part D prescription drug coverage gap (doughnut hole) will be gradually reduced by 2020. Seniors who reach the doughnut hole in 2010 will receive a $250 rebate. Starting in 2011, drug companies will be required to provide a 50% discount on brand-name drugs bought in the coverage gap. The federal subsidy for Part D premiums will be reduced for higher-income beneficiaries. The reduction scale is currently unknown.

Reducing Medicare Spending, a new advisory board would submit recommendations to Congress to reduce the rate of growth in Medicare spending.

Medicare Advantage plans (Part C)

To get costs more in line with Original Medicare, the new law freezes federal payments to private Medicare Advantage plans at 2010 levels. These plans will be required to spend at least 85% of their revenues on patient care.

Temporary Retiree Health Plans (not Medicare)

For individuals 55 or older and receive retiree health benefits from their employers could be benefited from a government reinsurance program. The program will reimburse employers or insurers for 80% of retiree claims between $15,000 and $90,000. Payments from the reinsurance program will be used to lower the costs for enrollees in the employer plan. The program will end on January 1, 2014. It will not reimburse costs for retirees who are eligible for Medicare. As of January 1, 2014, everyone must buy qualify health insurance.

Early Retirees and Self-employed.

For most workers who receive employer-sponsored coverage, the new law is not likely to have much impact. But the law provides a number of protections for those who need to buy insurance in the individual market. As of September 2010, health insurers cannot place lifetime limits on the value of coverage or revoke existing coverage. Starting in 2014, insurers must accept all applicants, including anyone with preexisting medical conditions.

Until then, individuals with preexisting conditions who have been uninsured for more than six months will be eligible to enroll in a **National High-risk Pool** and receive subsidized premiums. Cost sharing will be capped at $5,950 for individuals and $11,900 for families. This could be especially helpful to early retirees in Arizona and Nevada, which do not have state high-risk pools. It could also help Floridians, because Florida's is not open to new enrollees.

(H.R. 3590; H.R. 4872)

(4) OTHERS

Health Exchanges and Coverage Subsidies

Beginning 2014, everyone would be required to buy coverage, or pay a penalty. Early retirees, the self-employed and others without insurance would be able to purchase coverage through State-based Exchanges. Premium assistance and/or tax credits would be available to individuals and families with income between 100% and 400% of the poverty level (generally that is $11,000 to $44,000 for singles and $22,000 to $88,000 for a family).

By 2014, employers with 50 or less employees may choose to acquire their mandatory health coverage for employees from the State based Health Insurance Exchange. For employers with 100 or more employees, they may have to wait until 2017 before they will be eligible for State based Health Insurance Exchange. The detail procedures and requirements will be developed by the Department of Labor (DOL).

By 2014, private insurance companies could sell policies through the Health Exchanges. Buyers would choose among four broadly defined benefit categories.

Long-term Care

In 2011, workers can enroll in a national insurance program to cover non-medical services in case of disability. After a five-year vesting period, the **Community Living Assistance Services and Supports program** will provide individuals who become disabled with a benefit of about $50 a day. The program will be financed with voluntary payroll deductions. Currently, it is not clear whether this problem will cover individuals other than workers receiving wages/salaries, i.e. self employed and/or unemployed. [**Note**: Currently, Long Term Care Insurance daily benefit ranged from $250 to $500]

(H.R. 3590; H.R. 4872)

THE END