Selected Employer Provisions in the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010

This chart outlines, in depth, selected provisions in the Patient Protection and Affordable Care Act, the Senate-passed healthcare reform bill, and the subsequent changes made to that bill by the Health Care and Education Reconciliation Act of 2010. ***The information in this chart is a summary of the law as it was passed – for current deadlines and regulatory information, please refer to the*** *Health-Care Reform Timeline.*

Provision	Selected, key healthcare reform provisions related to employers in the Patient Protection and Affordable Care Act (PPACA) and the Health Care and Education Reconciliation Act of 2010 (HRA)
Employer Responsibility to Provide Health Insurance	No employer mandate to provide health insurance but employers who employ 50 or more full time employees (defined as 30 or more hours of service per week) and the employer must also include in that number part-time employees (which is determined by dividing the aggregate number of hours of service of employees who are not full-time employees for the month by 120) and don't offer health insurance must pay a fine if one of their employees receives a subsidy for coverage in the Exchange. (HRA, Sec.1003) The amount of the assessment is determined by subtracting the first 30 full time employees from the number of 50 or more FTES. Then, for any number of employees above that first 30, the employer must pay an assessment (which has increased to $2000 per Full time employee). For example, an employer with 51 full time employees, would subtract the first 30 FTEs and reach a number of 21 FTES, the employer's fine would be 21 x $2000 or $42,000. (HRA, Sec.1003) Employers do not pay an assessment for employees in a waiting period but beginning in 2014 there is a 90 day limit on the length of any waiting period. (HRA, Sec.1003) Levies an excise tax of 40 percent on insurance companies and plan administrators for any health coverage plan (stand alone dental and vision plans not included) with an annual premium that is exceeds $10,200/individuals and $27,500/families. For retirees (55+) and for plans that cover employees in "high risk professions" the tax applies to threshold amount of $11,850 for single coverage and $30,950 for family coverage. The dollar amount thresholds are automatically increased if the inflation rate for group medical premiums between 2010 and 2018 is higher than the Congressional Budget Office estimates in 2010. Employers with age and gender demographics that result in higher premiums are allowed to value the coverage provided to employees using the rates that would apply using a national risk pool. The dollar thresholds are indexed to inflation. The tax is effective in 2018 and applies to the amount of the premium in excess of the dollar threshold. (HRA, Sec. 1401) Beginning in 2011, employers are required to disclose the value of each employee's health insurance coverage on the annual Form W-2. (PPACA, Sec. 9002) Employers would be required to provide a voucher worth the same amount as the largest premium contribution the employer makes to a health plan. To qualify for the voucher, employees must be eligible for coverage under an employer plan, whose required premium contribution is between 8 and 9.8% of their income, and their total household income does not exceed 400% of the federal poverty level. The voucher would be used by the employee to purchase health insurance in an exchange in lieu of the employer sponsored plan. The amount of the voucher

	would not be taxable and the employee would be able to retain any excess amount. (PPACA, Sec. 10108) **UPDATE: This provision was repealed in the 2011 budget passed on April 8, 2011** Beginning in 2013 Modifies the tax to include net investment income in the taxable base. Currently, the Medicare tax does not apply to net investment income. The Medicare tax on net investment income does not apply if modified adjusted gross income is less than $250,000 in the case of a joint return, or $200,000 in the case of a single return. (HRA, Sec 1402)
Auto-Enrollment Provisions	Employers with more than 200 full-time employees and that offers employees enrollment in 1 or more health benefits plans required to automatically enroll new full-time employees in one of the plans offered (subject to any waiting period authorized by law). Any automatic enrollment program must include "adequate notice and the opportunity for an employee to opt out of any coverage the individual or employee were automatically enrolled in." (PPACA, Sec. 1511)
Wellness	Requires the CDC to study and evaluate best employer-based wellness practices and provide an educational campaign and technical assistance to promote the benefits of worksite health promotion to employers. (PPACA, Sec. 4303) Any recommendations, data, or assessments carried out under this part shall not be used to mandate requirements for workplace wellness programs.(PPACA, Sec. 4303) Permits employers to establish premium discounts or rebates, or modify co-pays or deductibles up to 30% to encourage participation in health promotion or disease prevention program. The Secretary would have authority to issue regulations to allow financial incentives up to 50%. (PPACA, Sec. 2705)
Health Insurance Exchange	Creates separate exchanges for the small group and individual markets. Employees of non-small business employers may participate in the Exchange IF: - The employer did not provide minimum, essential coverage OR - The employer provided such coverage but it was deemed unaffordable. (PPACA. Sec. 1311) Exchange eligible employers choose a level of coverage (bronze, silver, gold, platinum - see "Mandated Benefits" for definitions) and employees can choose any plan offered in that level of coverage in the Exchange. (PPACA, Sec 1312) The term ''qualified employer'' means a small employer that elects to make all full-time employees of such employer eligible for 1 or more qualified health plans offered in the small group market through an Exchange that offers qualified health plans. (PPACA, Sec 1312) Beginning in 2017, each State may allow issuers of health insurance coverage in the large group market (employers over 100 employees) in the State to offer qualified health plans in such market through an Exchange. (PPACA, Sec 1312) All legal U.S. residents may obtain insurance coverage through the health insurance exchanges. People with employer coverage are not eligible for an income-based tax credit for coverage obtained in an exchange unless their share of the premium for the employer plan would exceed 9.8% of income or if the employer plan has an actuarial value of less than 60%. (PPACA, Sec. 1401)
Mandated Benefits	Creates four benefit categories: Bronze (60% actuarial value), Silver (70% actuarial value), Gold (80% actuarial value), and Platinum (90% actuarial value). (PPACA, Sec 1312)

	Includes a "young invincible plan" for people 30 and younger that only includes catastrophic coverage in the individual market. (PPACA, Sec. 1302) All plans must provide services outlined in Senate Finance Committee bill (See Healthcare Reform Tracker page). However, the Secretary of Health and Human Services shall ensure that the scope of the essential health benefits is equal to the scope of benefits provided under a typical employer plan, as determined by the Secretary. The Secretary of Labor shall conduct a survey of employer-sponsored coverage to determine the benefits typically covered by employers, including multiemployer plans, and provide a report on such survey. (PPACA, Sec. 1302) In the case of a health plan offered in the small group market, the deductible under the plan shall not exceed— $2,000 in the case of a plan covering a single individual; and $4,000 in the case of any other plan. (PPACA, Sec. 1302) No lifetime limits or overall annual dollar limits on benefits. (PPACA, Sec. 1302) In 2014, group health plans must prohibit pre-existing condition exclusions, restrict annual limits beginning six months after enactment, and prohibit them starting in 2014. (HRA, Sec. 2301) All existing health insurance plans must starting 6 months after enactment of the bill, prohibit lifetime limits, prohibit rescissions, limitations on excessive waiting periods, and a requirement to provide coverage for non-dependent children up to age 26. (HRA, Sec. 2301) For coverage of non-dependent children prior to 2014, the requirement on group health plans is limited to those adult children without an employer offer of coverage. (HRA, Sec. 2301)
FSAs/HSAs	Beginning in 2013, Proposed limit of $2,500/year for health FSA contributions to be implemented in Dec. 2010. Limit is indexed to cost of living adjustments in the following years in increments of $50. (PPA, Sec. 9005; HRA Sec. 1403) Increases the penalty from 10% to 20% for distributions from HSAs that are not used to pay for health related expenditures. (PPACA, Sec. 9004) Nontaxable reimbursements from health FSAs, HRAs, and HSAs could no longer be used for medicine or drugs unless the medicine or drug is prescribed or is insulin. (PPACA, Sec. 9003)
Dependent Coverage	All existing health insurance plans must starting 6 months after enactment of the bill, prohibit lifetime limits, prohibit rescissions, limitations on excessive waiting periods, and a requirement to provide coverage for non-dependent children up to age 26. (HRA, Sec. 2301) For coverage of non-dependent children prior to 2014, the requirement on group health plans is limited to those adult children without an employer offer of coverage. (HRA, Sec. 2301)
Small Business Provisions	Provide small employers with no more than 25 employees and average annual wages of less than $50,000 that purchase health insurance for employees with a tax credit. The full credit will be available to employers with 10 or fewer employees and average annual wages of less than $25,000. The credit phases-out as firm size and average wage increases. Tax-exempt small businesses meeting these requirements are eligible for tax credits of up to 25% in Phase I and 35% in Phase II of the employer's contribution toward the employee's health insurance premium. (PPACA, Sec. 1421)

	Phase I : For 2010 through 2013, tax credit of up to 35% of the employer's contribution toward the employee's health insurance premium if the employer contributes at least 50% of the total premium cost or 50% of a benchmark premium. (PPACA, Sec. 1421) Phase II : For tax years 2014 and later, for eligible small businesses that purchase coverage through the state Exchange, provide a tax credit of up to 50% of the employer's contribution toward the employee's health insurance premium if the employer contributes at least 50% of the total premium cost. The credit will be available for two years. (PPACA, Sec. 1421) Establishes a 5-year, $200,000,000 grant program to help small employers (less than 100 employees) who do not have wellness programs already in place provide comprehensive wellness programs to their employees. The grant program begins in 2011 and extends through 2015 or until all the money has been appropriated. The Secretary of Health and Human Services will lay out criteria for eligibility but wellness programs must include the following to be eligible: health awareness initiatives (including health education, preventive screenings, and health risk assessments); efforts to maximize employee engagement (including mechanisms to encourage employee participation); initiatives to change unhealthy behaviors and lifestyle choices (including counseling, seminars, online programs, and self-help materials); and supportive environment efforts (including workplace policies to encourage healthy lifestyles, healthy eating, increased physical activity, and improved mental health). (PPACA, Sec. 10408)
Retiree Provisions	Beginning in 2013, eliminates the deduction for the subsidy for employers who maintain prescription drug plans for their Medicare Part D eligible retirees. (PPACA, Sec. 9012; HRA, Sec. 1407) Establishes a $5 billion, temporary reinsurance program to provide reimbursement to participating employment-based plans for part of the cost of providing health benefits to retirees (age 55-64) and their families. Participating employment-based plans will be reimbursed for 80% of the cost of benefits provided per enrollee in excess of $15,000 and below $90,000. Plans are required to use the funds to lower costs borne directly by participants and beneficiaries. (PPACA, Sec. 1102)
Individual Coverage Requirements	Requires U.S. citizens and legal residents to have qualifying health coverage, with certain exceptions including but not limited to hardship, American Indians, religious objections. (PPACA, Sec. 1501) Tax penalty assessed on those who do not comply. Exemptions will be granted for financial hardship, religious objections, American Indians, those without coverage for less than three months, undocumented immigrants, incarcerated individuals, those for whom the lowest cost plan option exceeds 8% of an individual's income, and those with incomes below the tax filing threshold (PPACA, Sec. 1501; HRA Sec. 1002) The assessment that individuals who choose to remain uninsured pay is $95 in 2014, $325 in 2015, and $695 in 2016 for the flat fee OR 1.0% in 2014, 2.0% in 2015, and 2.5% for 2016 and subsequent years (HRA, Sec. 1002). Beginning after 2016, the penalty will be increased annually by the cost-of-living adjustment. (PPACA, Sec. 1501)
Cafeteria Plans	Establishes a Simple Cafeteria Plan, codified in Section 125 of the Internal Revenue Code of 1986, for businesses with 100 or fewer employees during either of the two years prior to the establishment of the plan. (PPACA, Sec. 9022) Employer is required, regardless of whether a qualified employee makes any salary reduction contribution, to contribute a uniform percentage (not less than

	2%) of the employee's compensation or an amount which is not less than the lesser of 6% of the employee's compensation for the plan year or twice the amount of the salary reduction contributions of each qualified employee. (PPACA, Sec. 9022) The provision also exempts employers who make contributions for employees under a simple cafeteria plan from pension plan nondiscrimination requirements applicable to highly compensated and key employees. (PPACA, Sec. 9022) All employees who had at least 1,000 hours of service for the preceding plan year must be eligible to participate and each eligible employee may, subject to terms and conditions applicable to all participants, elect any benefit available under the plan. (PPACA, Sec. 9022) Exceptions to the employee eligibility requirement include: any employee not yet 21 before the close of the plan year; employees who have less than one year of service with the employer as of any day during the plan year; nonresident aliens working outside the US; and employees who are covered under a collective bargaining agreement if there is evidence that the benefits covered under the cafeteria plan were the subject of good faith bargaining between employee representatives and the employer. (PPACA, Sec. 9022)
Anti-Discrimination	Employers that provide health coverage would be prohibited from limiting coverage eligibility based on the wages or salaries of full time employees. (PPACA, Sec. 2716) Any wellness or health promotion activity implemented under this Act may not require the disclosure or collection of any information relating to the lawful use or possession of a firearm. (PPACA, Sec. 2716) Would amend the Fair Labor Standards Act (FLSA) to ensure that employees who receive premium tax credits are not discriminated against with respect to their compensation, terms, conditions, or other privileges of employment. (PPACA, Sec. 1558)
Miscellaneous	Limits the deductibility of executive compensation under Section 162(m) to $500,000 for insurance providers if at least 25% of the insurance provider's gross premium income from health business is derived from plans that meet the minimum essential coverage requirements of the bill. This applies to all officers, employees, directors, and other workers or service providers performing services for or on behalf of a covered health insurance provider. (PPACA, Sec. 9014) Would amend the FLSA to require employers with 50 or more employees to provide break time and a place for breastfeeding mothers to express milk. There are no monetary damages for noncompliance. (PPACA, Sec. 4207) Provides for a one-time adjustment to corporate estimated taxes for payments made during calendar year 2014 (increased by 14.5 percentage points). (HRA, Sec. 1410)