# First Wave of Health Care Reform Requirements Take Effect For Plan Years Beginning on or After September 23, 2010

September 20, 2010 by Adam Santucci

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The Patient Protection and Affordable Care Act ("PPACA") (pdf), otherwise known as the Health Care Reform Law, is hundreds of pages long and contains dozens of requirements affecting employers, health care providers and group health plans. Implementation of these new requirements will be staggered over the next eight years, with many of the most sweeping changes taking effect in 2014. However, for some employers and plans, a very important implementation date is imminent.

**When Must Your Plan Comply?** Group health plans and health insurance issuers are required to comply with a host of PPACA's requirements by the first "plan year" beginning on or after September 23, 2010. For plans that operate on a calendar plan year basis, this means a compliance deadline of January 1, 2011. Employers who are uncertain of the start date of their next plan year should find it in the "general information" section at the back of their plan booklet or consult their employee benefits professional.

**Requirements Affecting All Plans.** There are two types of requirements that will take effect for the upcoming plan year – the first group applies to all group health plans and the second applies only to plans that are considered "non-grandfathered" under recently issued interim federal regulations (pdf). The requirements that apply to all plans are as follows:

- Extension of dependent coverage to children up to age 26;
- Elimination of lifetime dollar limits on essential benefits and gradual elimination of annual limits;
- Elimination of pre-existing condition exclusions for children under age 19;
- Elimination of retroactive rescissions of coverage (except for fraud, misrepresentation and non-payment);
- Elimination of reimbursement for most over-the-counter medications under HRAs, HSAs and FSAs and an increased excise tax for non-qualified distributions under these plans (effective January 1, 2011).

**Additional Requirements for Non-Grandfathered Plans.** As noted above, non-grandfathered plans have several additional requirements to comply with for plan years beginning on or after September 23, 2010. A non-grandfathered plan is one that was either established after March 23, 2010 or which existed beforehand but lost grandfathered status by making a disqualifying change to benefits after that date. These additional requirements include:Additional Requirements for Non-Grandfathered Plans. As noted above, non-grandfathered plans have several additional

requirements to comply with for plan years beginning on or after September 23, 2010. A non-grandfathered plan is one that was either established after March 23, 2010 or which existed beforehand but lost grandfathered status by making a disqualifying change to benefits after that date. These additional requirements include:

- Implementation of certain non-cost preventive health services;
- Implementation of new required appeals processes;
- Compliance with rules prohibiting discrimination in favor of highly compensate individuals for fully insured plans; and
- Protection of a participant's right to designate a primary care physician; and
- Implementation of a participant's right to obtain emergency care and OB-GYN services without prior authorization

Although opponents of PPACA hope to repeal the law through the election process or block its enforcement via litigation , those efforts will likely take years to be resolved. The requirements listed above take effect in the near term and employers should work with their benefits professionals to ensure that their plans are up to date by the first plan year following September 23, 2010. For additional information regarding these requirements and the "grandfathering" regulations, consult our prior posts or contact any of the attorneys in our Labor and Employment Group.