

# Health Care Reform: Are You Ready for the 2010 & 2011 Changes?

James E. Bushnell, CLU, CEBS

## Texas Seed Trade Association

November 16, 2010

  
Bushnell & Company  
Employee Benefit Consultants

[www.BushnellCompany.com](http://www.BushnellCompany.com)

### Health Care Reform - 2010



© Bushnell & Company – All Rights Reserved

2

What Did We Get? Some think ...

B



© Bushnell & Company – All Rights Reserved

3

What Did We Get? Some think ...

B



© Bushnell & Company – All Rights Reserved

4

## What Did We Get? The answer

B



© Bushnell & Company – All Rights Reserved

5

## The Legislation ...

B



Patient Protection and  
Affordable Care Act  
(PPACA)

Passed March 23, 2010  
(2,409 Pages)

Health Care and Education  
Reconciliation Act of 2010  
Passed one week later

(153 Pages)

© Bushnell & Company – All Rights Reserved

6

## Legislation Amended / Impacted ...

- Employee Retirement Income Security Act of 1974
- Internal Revenue Code
- Department of Labor Rules & Regulations
- Equal Employment Opportunity Commission
- Health Care Providers
- State's Jurisdiction of Health Insurance
  - Minimum policy requirements
  - Uninsurable pools
- Health Insurance Providers
- **Consumers!!!**

## The Reforms - It's a Big Deal!

**These changes are effective for 1st Plan Year beginning 6 months after enactment:**

- Elimination of lifetime limits – Regs. Issued 6/28/10
- Elimination of annual limits – Regs. Issued 6/28/10
- Extension of dependent coverage for adult children less than age 27, whether married or unmarried
- No pre-existing condition exclusion for dependents under age 19
- Bar rescission of health insurance coverage – Regs issued 6/28/10
- Standard uniform explanation of coverage (once developed)
- Cost reporting and rebate requirement

## The Reforms (cont'd)

B

**These changes are effective 1<sup>st</sup> Plan Year six months after enactment:**

- Coverage of preventative care – HHS, Labor & Treasury issued Regs. 7/14/10
- Transparency requirements
- Non-discrimination rules for fully-insured plans
- Ensuring quality of care
- Claims procedures
- Patient protections
- High risk pools
- Plus a whole bunch more!

## Government & Health Care

B



## Agenda ...



- Timeline for Group Health Plan HCR Provisions
- Health Insurance Reforms
  - [Grandfathered Plans – How Important?](#)
- **Employer Responsibility – Lots!!!!**
- Tax on Cadillac Plans – effective 2018 – forget for today

## Group Health Plan Provisions - 2010



- Tax credit for small employers – **Begins 1/1/2010**
  - < 25 Full Time Equivalent
  - Avg. Annual Wage < \$50,000
  - Phase out rules in > 10 EEs; Avg. Annual Wage \$25,000
  - IRS IR-2010-44 – Issued 5/17/10 - Great explanation w-examples
- Definition of Dependent – Tax Free Health Benefit
  - Less than age 27
  - **Single, married: children; step children; foster children; grand child**
  - IRS IR-2010-38 Issued 5/13/10
- Early Retiree Reinsurance Program (ERRP)
  - Early retirees age 55-65
  - HHS issued Interim Regs. 5/5/10
  - HHS issued procedures 6/21/10
  - Applications started to be accepted 6/29/10
  - \$5 Billion all spoken for

## Group Health Plan Provisions - 2010

(cont'd)

*B*

- High Risk Pools
  - Texas deferred to HHS
  - Supposed to be effective 7/1/10. Delayed to 8/1/10 – who knows?
- HHS launches consumer website 7/1/10
  - [www.HealthCare.gov](http://www.HealthCare.gov)

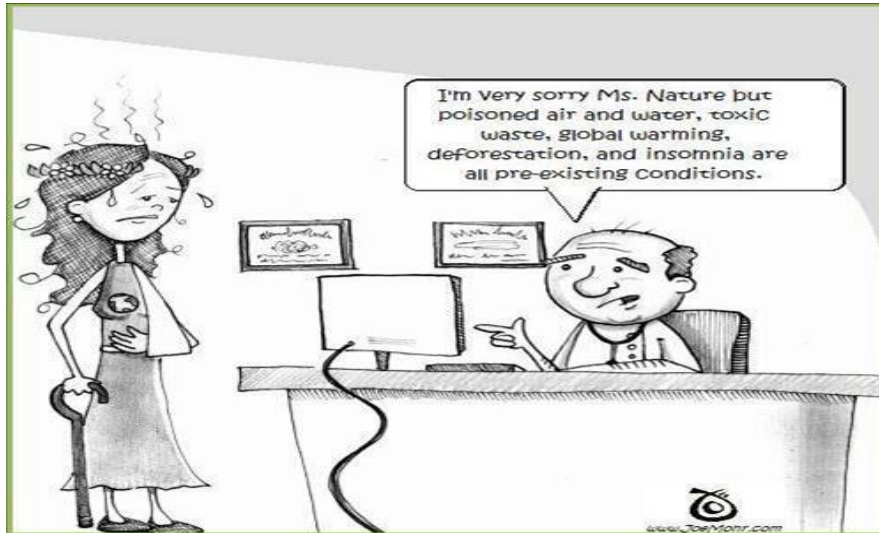
## Group Health Plan Provisions - 2011

*B*

- Over the Counter Medications
  - FSA, HRA, HSA
  - Prescribed by physician, regardless if Rx is necessary
  - IRS Notice 2101-59 issued 9/3/10
- Non-Qualified HSA Distributions
  - Excise Tax increased from 10% to 20%
- “Simple” Cafeteria Plan Safe Harbor
  - Certain requirements
  - < 100 last 2 full years
- W-2 Reporting – Value of Health Plan
  - COBRA Rates – Highest Level????

## Are we having fun yet?

B



© Bushnell & Company – All Rights Reserved

15

## Health Ins. Reforms PY ≥ 9/23/10

B

- Annual & Lifetime Limits – Eliminated
- Prohibition on Rescissions
- Coverage for preventative care
- Coverage for adult children less than age 27
- Nondiscrimination rules for insured plans
  - IRC Sec. 105(h) now applicable like Cafeteria Plans
- Preexisting condition exclusions - < age 19
- Cost Reporting and Rebate Requirements
  - Refund if loss ratio < 85% - Insured plans
  - Self-insured plans excluded
- Claims Procedures – Establish internal claims appeal process – 4 rules now **PLUS** External Review Process

© Bushnell & Company – All Rights Reserved

16

## Health Ins. Reforms PY ≥ 9/23/10 (cont'd)

B

- Patient Protections (waiting HHS)
- Transparency Requirements (waiting HHS)
- Ensuring Quality of Care (HHS by 3/23/2012)
- Uniform Explanation of Coverage
  - In addition to Summary Plan Description
  - HHS to establish standards by 3/23/2011
  - Big \$1,000 penalty for each failure
  - Huge re-tooling for the industry

Do you sort of feel like ....

B



## Grandfathered Plans



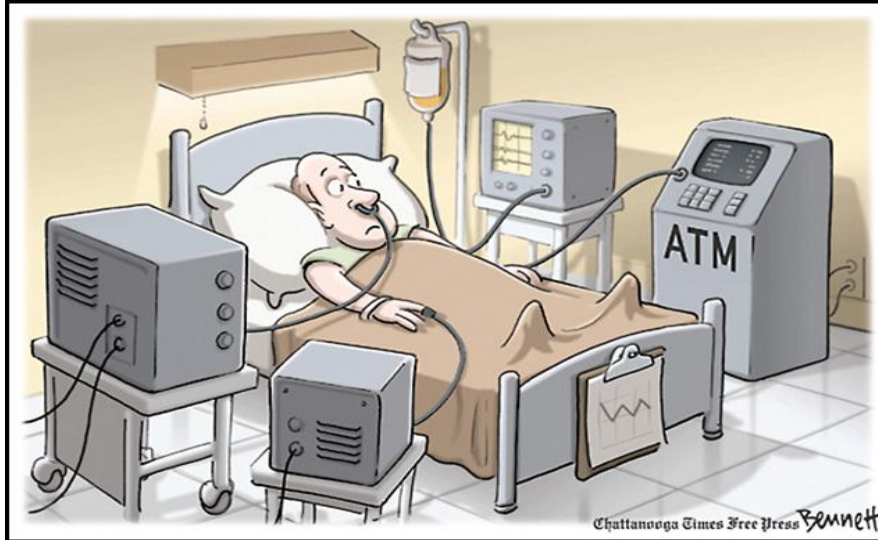
- In existence before 3/23/10
- Must comply with all provisions of Legislation on first Plan Year on or after 9/23/10, except can exclude the following as long as it maintains Grandfather status (i.e. allowed changes by HHS Interim Regs. issued 6/17/10 but still questions....)
  - Coverage of preventative care
  - Nondiscrimination rules for insured plans
  - Claims appeal procedures
  - Transparency requirements
  - Ensuring quality of care

## Grandfathered Plans (cont'd)



- Fair health insurance premiums
  - Loss ratio 85%
  - Fully insured plans only
- Non-discrimination based on health status (HIPAA)
- Prohibition on discrimination against providers
- Cost sharing limitations
- Requirement to provide essential benefits
- Participation in clinical trials
- IRS issued Interim Regs

## Penny For Your Thoughts...



© Bushnell & Company – All Rights Reserved

21

## Questions ...



**Thank you  
and  
Congratulations on your endurance.**

[JimBushnell@BushnellCompany.com](mailto:JimBushnell@BushnellCompany.com)

© Bushnell & Company – All Rights Reserved

22