



# Implementing the Affordable Care Act Countdown to 2014



## Affordable Care Act

The countdown to the 2014 implementation of the Affordable Care Act (ACA) has begun. Each week, administrative decisions, guidance, rules and regulations are coming from the federal and state governments to make ACA a functioning health care system for the 21<sup>st</sup> century.

### **Here and Now – Federal Actions**

In the past few weeks, rules were published that charge insurance companies to participate in federal exchanges, prohibit discrimination based on pre-existing conditions, detail essential health benefit requirements, and expand employment-based wellness programs.

The U. S. Department of Health and Human Services (HHS) released three proposed rules implementing the Affordable Care Act. Comments may be submitted during the 90-day comment period. One of the rules details ACA's guaranteed issue and community rating requirements. The rule would prohibit health insurance companies from discriminating against individuals because of pre-existing or chronic conditions, gender or occupation starting in 2014. Under the rule, the only factors by which insurers can underwrite are family size, geography and whether or not the individual smokes. In addition, insurers may not charge seniors more than three times what they charge young people – currently, insurers in 42 states charge seniors five or more times what they charge young adults.

Another of the proposed rules outlines coverage of essential health benefits, which are the minimum package of benefits the Affordable Care Act says must be included in health insurance plans. The categories of benefits that must be included are inpatient and outpatient care, emergency services, maternity and childhood care, prescription drugs, preventive screenings and lab work, mental health and substance abuse treatment, rehabilitation for physical and cognitive disorders, and dental and vision care for children. Much of this information was already known. One surprise, however, is that health insurance

plans will have to cover the same number of prescription drugs as the benchmark plan in their states, which means there will be a greater number of prescription drugs covered in each class of drugs.

HHS also issued new rules regarding charging insurance companies monthly fees to sell plans through federally run insurance exchanges. These fees will be based on the number of customers each insurer has in the exchange.

Finally, HHS also has released a proposed rule that implements and expands employment-based wellness programs to promote health and help control health care spending. Under the regulation, employers may reward employees for annual exams or regular workouts, but they may not punish people who do not engage in these activities.

### **States Are Making Decisions About Implementation**

At the state level, there are lots of decisions to make. States are in the process of defining the benchmark plan as the standard to certify health insurance plans for being included in the exchange. States also need to decide if it will operate its own health insurance exchange, a state/federal partnership exchange or default to the federal exchange for the sale of coverage to those without employer provided health care benefits? How will the exchange be governed? Will the state expand Medicaid?

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*Cozen O'Connor and Cozen O'Connor Public Strategies has experience working with elected and appointed state officials, regulators and boards and commissions to help clients meet their needs as employers, providers or as patient advocates. If you have any questions about the ACA or how its implementation will impact you and your business, feel free to contact us.*