

# How Might Health Reform Impact Employers?

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# Health Reform Status from Employer Perspective

- Plans cover 170 million+ Americans
- Many employer issues unresolved
  - Final legislative direction
  - Lack of specificity in legislative language
  - Extensive regulatory process likely
- Letter covering key unresolved concepts
  - 1/19/2010 – 733 employers and associations
- Letter covering implementation issues
  - 1/14/2010 – 11 associations



# Look Back: Employer Support

- Insurance market reforms
- Individual mandate / universal coverage
- Insurance exchanges
- ERISA framework protected
- Quality initiatives
- Wellness – codification of HIPAA rules



# Look Back: Employer Concerns - 1

- Nature of employer responsibility/mandate
- Weak individual mandate
- Sen. Wyden's "free choice" voucher
- Retiree health restrictions
- State remedies – House bill
- Excise tax on high-cost plans – Senate bill



# Look Back: Employer Concerns - 2

- Premium taxes / health industry taxes
- Retiree drug subsidy tax
- CLASS Act
- Waiting period restrictions
- Definition of full-time work
- Public plan options



# Employer *Pre-Enactment* Considerations – 1

- House proposal: protect retiree benefits
  - Protect benefit as of date of retirement
    - NOT “or date of enactment, if later”
    - Negates contract agreements
    - Conflicts: state insurance laws & medical best practices?
    - Records do not exist
    - Future reductions tied to active employee plan
    - Litigation inevitable
  - Only protects those with coverage at enactment
    - Previously dropped coverage not impacted



# Employer *Pre-Enactment* Considerations – 2

- Senate proposal: tax retiree drug subsidies
  - Reverses carefully crafted policy adopted in 2003
  - Immediate hit to earnings and balance sheet
    - Net present value of tax for lifetime of employees and retirees
    - Impairs liquidity; possible trigger to loan covenants
    - SEC *must* report loss immediately on enactment
    - Huge financial hit if large, legacy retiree group
  - Millions of retirees might lose employer coverage
    - Accounting rules: immediate termination **ONLY** alternative
    - Must be announced coincident with, or prior to, enactment



# Unworkable Timing for New Plans

- Must do's:
  - Get conforming state laws
  - After state and federal regulations are known
    - Major IT investments for employers, insurers and providers
    - Contract negotiations & plan changes
    - Conforming insurance company modifications
    - Communications materials & employee engagement
    - Pre-existing exclusions, rate reviews, medical loss ratios
- When? Day of enactment (House); 6 months (Senate)
- Prognosis: no new plan for months or years?





# Other *Post-Enactment* Issues

- Grace period (House) vs. Grandfather (Senate)
- Conforming plan amendments
- Decision: “free-rider” vs. “cost of plan”
- Excise tax on high-cost plans
- Limit health spending account contributions

