

# ***Health Care Reform: Chapter Five***

## ***Health Care Reform and Early Childhood Programs: What Does It Mean for Us?***

Southern Early Childhood Association



SECA Policy Brief  
September 2010  
Modified October 2010

## **The Senate and House Compromise**

On March 30, 2010, the **Health Care and Reconciliation Act of 2010** (H.R. 4272) was signed into law by President Obama. The signing of this legislation completed a vociferous debate about a massive overhaul of the nation's health insurance and health delivery systems. The Reconciliation Act amends the previously passed **Patient Protection and Affordable Care Act of 2010** and combined, both new laws include more than \$400 billion in revenue "enhancements" and new taxes on employers and individuals. *Source: CCH Tax Briefing, 3-30-2010*

The debate over the law is far from over and there are already signs that the provisions in the law may be "tweaked" as implementation begins. As of the writing of this brief, public opinion polls do not show that the general public supports the changes in the health care law, and it has become a hotly contested issue in the political campaigns that are currently underway. Democratic and Republican positions are vastly opposed on what happens now.

Democrats support the law but are beginning to concede that changes may need to be made. According to Senator Mark Pryor (D-AR), *"I have no doubt that we will amend and adjust this legislation as it goes through. This is not sacred. This is a piece of work that I'm sure there's some gaps in it; I'm sure there's some unintended consequences."* *Arkansas Democrat-Gazette, 9-23-2010.*

On September 23, 2010, Republicans in Congress issued their response to the Democratic agenda. Entitled, *A Pledge to America*, the document outlines the Republican agenda to solve the issues currently facing the nation. In regard to health care reform:

*"Of course, Americans remember that President Obama argued his government takeover of health care was the single most important thing we could do to address our growing debt crisis. This notion has since been thoroughly discredited: we now know the new health care law will mean more financial pain for seniors, families and the federal government. We offer a plan to repeal and replace the government takeover of health care with common sense solutions focused on lowering costs and protecting American jobs. We will enact real medical liability reform; allow Americans to purchase health coverage across state lines; empower small businesses with greater purchasing power; and create new incentives to save for future health needs. We will protect the doctor-patient relationship, and ensure that those with pre-existing*



*conditions gain access to the coverage they need. We will permanently end taxpayer funding of abortion and codify the Hyde Amendment. “*

*Source: A Pledge to America, Republicans in Congress, 9-23-2010, [www.pledge.GOP.gov](http://www.pledge.GOP.gov).*

Obviously, the two sides are far apart on how to resolve the health care issues facing the country, and it will be a continuing debate about whether the current legislation effectively addresses those problems.

## **How Does Health Care Reform Affect Early Childhood Programs?**

Although most of us consider child care and early childhood programs as educational in nature and don't necessarily focus on the business aspects of our programs, we hire employees, remit payroll taxes to the federal government, file tax returns (both for-profit and non-profit) and purchase goods and services from the business sector.

Because much of the Health Care Reform law is focused on the employer/employee relationship and how individuals access health care coverage, there will be ramifications for early childhood programs because they fit the definition of a small business.

In this policy brief, we'll focus on two areas that may potentially impact early childhood programs.

### **Financial Supports to Small Business • Small Business Reporting Requirements**

## **Who Qualifies as a Small Business under the Health Care Reform Act?**

- For the purposes of requirements to provide insurance, generally, a small business is defined as an employer with 50 or fewer full-time employees.
- For the purposes of the tax credit that will be discussed later in this brief, the definition of the small business is 25 or fewer full-time employees.
- Part-time employees may be counted to equal one full-time employee. Two or more employees must work 2080 hours to meet the FTE (Full Time Equivalent) standard.



## Financial Supports to Small Business

A **Small Employer Workplace Wellness Grant Program** is authorized in the law. This program is authorized, but as of the date of this brief, no information is available on application opportunities. The Grant Program will be provided by the U.S. Department of Health and Human Services and is authorized at \$200 million for FY 2011. DHHS must allocate that amount in its budget for the program to be funded.

The law specifies that an employer eligible for the grant must employ fewer than 100 employees who work 25 hours or more per week and has not provided an employee wellness program prior to passage of the Affordable Care Act.

The employee wellness program funded by the grant must include these components:

- Health Awareness Initiatives (such a health education, preventive screenings and health risk assessments)
- Efforts to maximize employee involvement and participation
- Initiatives to change unhealthy behaviors and lifestyle choices (such as counseling, seminars and self-help materials)
- Workplace policies to encourage healthy lifestyles, healthy eating, increased physical activity and improved mental health.

*Source: CCH's Law, Explanation and Analysis of the Patient Protection and Affordable Care Act, Volume 1, Wolters Kluwer Law & Business, Section 1453, p. 664.*

A **Small Business Tax Credit** will be available beginning in **2010** to assist employers in paying for group health coverage.

- ✓ The tax credit is **temporary and based on a sliding-scale**.
- ✓ In this case, the **qualifying employer** is generally one with no more than 25 employees with average annual wages of no more than \$50,000. (To calculate the average annual wages, take the total annual wages paid to employees and divide it by the number of FTE's (Full Time Equivalent). *Source: [http://www.irs.gov/pub/irs-utl/3\\_simple\\_steps.pdf](http://www.irs.gov/pub/irs-utl/3_simple_steps.pdf)*)



- ✓ The qualified employer must **contribute at least one-half of the cost of health insurance premiums** for coverage of its participating employees.
- ✓ **IRS Form 8941** will be used to claim the credit for small employers.
- ✓ **For-profit employers** will fill out Form 8941, include it with their tax return, and then claim the credit as part of the general business credit on its income tax return.
- ✓ **Non-profit employers** will also fill out Form 8941, but will utilize Form 990-T to claim the credit. This is the form that tax-exempt entities currently use to report and pay tax on UBI (unrelated business income). “Form 990-T will be revised for the 2011 filing season to enable eligible tax-exempt organizations—even those that owe no tax on unrelated business income—also to claim the small business health care tax credit.”  
Source: *IRS Releases Form to Help Small Business Claim New Health Care Tax Credit*, 09/07/2010, <http://www.irs.gov/newsroom>
- ✓ In 2010 through 2013, **qualified small for-profit employers** may qualify for a tax credit of up to 35% of their contribution toward the employee’s health insurance premium.  
Source: *IRS Releases Form to Help Small Business Claim New Health Care Tax Credit*, 09/07/2010, <http://www.irs.gov/newsroom>
- ✓ **Qualified tax-exempt employers** are eligible for 25% of their contribution.
- ✓ **In 2014, the credit will increase** to 50% of premium for small for-profit employers and 35% of premium paid by tax-exempt employers. In order to be eligible for the enhanced credit after 2013, the employer must participate in an insurance exchange. The credit can only be claimed for two tax years that begin after 2013. Additionally, in order to claim the credit, the employer must pay at least 50% of the premium cost.
- ✓ In regard to the sliding scale for the tax credit, the **maximum credit** is available to smaller employers—those with 10 or fewer full-time equivalent (FTE) employees—paying annual average wages of \$25,000 or less. The credit is completely phased out for employers that have 25 FTE’s or more or that pay average wages of \$50,000 per year or more.
- ✓ Because the rules are based on the number of FTE’s, and not the number of employees, **businesses that use part-time help** may qualify even if they employ more than 25 individuals. Source: *IRS Releases Form to Help Small Business Claim New Health Care Tax Credit*, 09/07/2010, <http://www.irs.gov/newsroom>

For a copy of the draft Form 8941 go to <http://www.irs.gov/pub/irs-dft/f8941--dft.pdf>

For a copy of 3 Simple Steps to determine if you’re eligible for the credit, go to [http://www.irs.gov/pub/irs-utl/3\\_simple\\_steps.pdf](http://www.irs.gov/pub/irs-utl/3_simple_steps.pdf)



## Business Reporting Requirements

The major reporting requirements that will impact early childhood programs fall into two categories:

- 1) Employee Benefits
- 2) Purchasing

### Employee Benefits

- 1) The Health Care Reform Law **does not require employers to provide health insurance coverage**; however, large employers (50 FTE's or more) will be subject to "play or pay" rules after 2013. The "pay" portion will include non-deductible penalties. See # 5 below for more information on these penalties.
- 2) The Health Care Reform Law creates a **voluntary insurance program** for purchasing community living assistance services and support/long-term care. The **CLASS** (Community Living Assistance Services and Support) program will be voluntary for the employee; **however, if participating, employers will automatically enroll employees and payroll deduct premiums for this program.** Features of the program include:
  - **The employee must decline the coverage** in order to avoid the deductions.
  - **Employers may decline to participate** and the U.S. Department of Health and Human Services will design an alternative enrollment plan.
  - The U. S. Department of Health and Human Services will develop **three actuarially sound benefit plans** that will be in addition to privately offered insurance plans.
  - **Employees must pay premiums for 5 years** to be vested in the program.
  - The **program is scheduled to begin in 2011**; however, HHS is not mandated to create the benefit plans until 2012.
- 3) **For tax year 2011, employers will be required to report the aggregate cost of employer sponsored health insurance coverage provided to their employees on the employees'**



**W-2 form.** Coverage is treated as applicable employer-sponsored coverage regardless of whether the employer or employee pays for the coverage. If an employee enrolls in employer-sponsored health insurance coverage under a medical plan, a dental plan and a vision plan, the employer must report the total cost of the combination of these health related insurance policies. **NOTE: On October 12, 2010, the IRS issued a draft Form W-2 for 2011 and the White House announced that it will defer the new requirement for employers to report the cost of coverage under an employer-sponsored group health plan, making that reporting optional in 2011. The draft form does include the codes that employers may use to report the cost of coverage.**

- 4) If a current group health plan is modified (the employer makes a decision to change benefits), enrollees (your employees) must be provided **notice of those changes 60 days** before the effective date of the modification.
- 5) **Beginning in 2013**, an additional payroll tax will be collected from high-income taxpayers (more than \$200,000 for an individual and \$250,000 for couples). This tax increase will **increase the Medicare payroll tax contribution for these high-income taxpayers by 0.9%**. Employers will collect this tax and remit it to the federal government.
- 6) **Large employers** (50 or more FTE's) will face **penalties after 2013** if they fail to offer full-time employees and their dependents the opportunity to enroll in minimum essential coverage under an employer-sponsored plan if at least one full-time employee is enrolled in an insurance exchange and receives a premium assistance tax credit or cost-sharing. *(We would assume that this provision would have an impact on early childhood systems with multiple sites.)*
- 7) **In 2014, American Health Benefit Exchanges and Small Business Health Options Programs (SHOP) will be created.** These exchanges will allow individuals and small employers (up to 100 employees) to purchase qualified coverage. Employers must provide information to every employee about the availability of insurance through the exchanges.
- 8) **Beginning in 2014**, an employer that offers minimum essential coverage through an eligible employer-sponsored plan and pays any portion of the plan's costs is required to provide **free choice vouchers** to qualified employees. A qualified employee is:
  - An individual who **does not participate in the employer's health insurance plan**,
  - An individual whose **income does not exceed 400% for the Federal Poverty Level** (\$43,320 for an individual, \$58,280 for 2 persons, \$73,240 for 3 persons and \$88,200 for a family of four)



- An individual whose **required contribution for employer-sponsored minimum essential coverage** would exceed 8% but not 9.5% of household income if the individual participated in the employer-sponsored plan.

The voucher will be equal to the amount the employer would have spent on individual or family coverage.

- 9) Employers and other entities will be required to **file information returns** with the IRS identifying the individual, the coverage and the amount of premium, if any, paid by the individual. Penalties would be imposed for failure to file an information return.

- 10) Rules for cafeteria plans** (employee benefit plans that offer tax-free benefits) are relaxed under the law.

## Purchasing

Perhaps one of the more contentious items of the Health Care Reform Act has no direct relation to health care, other than to be cited as a potential revenue source to pay for the cost of expanding coverage. Reporting of income that can be cross checked against a tax return is considered to improve tax compliance and the enhanced tax revenue anticipated through this source has been used in the federal law to offset the cost of expanding coverage.

**The reporting requirement exception for certain payments made to a corporation in the course of a trade or business is eliminated. The reporting obligation applies if the total of all payments made by the payer to a vendor in any tax year is \$600 or more. The effect of this portion of the law is to require those engaged in a trade or business to report a broader range of payments made with respect to a broader range of payees. For example, payments for merchandise, telegrams, telephone, freight and storage have been exempt under IRS regulations; however, these expenditures could potentially be subject to reporting.**

For most early childhood programs, this will institute a new tax reporting requirement. Unless a program has utilized consultants and other self-employed individuals during the past year, it is unlikely that the program has issued Form 1099's at the end of the year. These forms are designed to report income to individuals and companies that would not be fully reported through other channels, such as on a W-2.



The new law requires that you report any payments over \$600 to any entity with whom you do business during the year. Practically, this will require that:

- **Your accounting system will need to maintain accurate records of all payments made to an entity.** (For instance, if you buy \$700 worth of supplies during the year at Wal-Mart, you would issue Wal-Mart a 1099 at the end of the year.)
- **You will be required to acquire and maintain a W-9 form from each vendor that meets the \$600 threshold which lists their federal employer ID number. This number is required for the Form 1099 reporting.**

The United States Chamber of Commerce has issued the following statement concerning the requirement. *The Chamber supports full repeal of the new 1099 reporting requirement before it goes into effect in 2012. Additionally, the cost of repealing this provision should not be accomplished by levying increased taxes on or removing existing tax incentives from business, thereby eroding American competitiveness and private sector job creation. At a time in which we have seen an unprecedented growth of the federal government, it is imprudent for lawmakers to saddle any one segment of the business community with the obligation to pay for the repeal of this ill-conceived, expanded information reporting mandate.*

The American Society of Association Executives (ASAE) which represents more than 11,000 organizations throughout the United States is leading a coalition to repeal these requirements. "This burdensome new requirement would likely prove to be a great hindrance for associations and nonprofits. Many associations and nonprofits operate as small-and-medium sized employers. By requiring an employer to issue a 1099 for every \$600 payment to a for-profit company, associations will drastically increase the amount of time their staff spends on paperwork and compliance." ASAE President and CEO, John H. Graham, IV *Source: News Release, 9-14-2010, [www.asaecenter.org](http://www.asaecenter.org).*

SECA will continue to monitor the implementation of this sweeping legislation and periodic updates will be provided both on the SECA website at [www.southernearlychildhood.org](http://www.southernearlychildhood.org) and Public Policy Alerts that will be forwarded to all individuals who have signed up to receive our newsletter, *Public Policy Notes*. To sign up for the newsletter and alerts, go to <http://www.southernearlychildhood.org/policy.php>.

**For additional background information on the Patient Protection and Affordable Care Act, see the SECA Policy Brief, *Health Care Reform: Chapter Four*, November 2009 at <http://www.southernearlychildhood.org/policy.php>**



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