

How do the Election Results Affect Health Care Reform?

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Although the results of the election retain the current balance of power in Washington, we will likely see significant change for those involved with employer provided benefit programs. Since legislative repeal is no longer an option, we are certain to see the Obama administration move forward and establish the rules for full implementation of the reform in 2014. We expect to see a torrent of guidance and regulations in the coming months – complex information that will shape the choices employers will face in addressing the employee benefits needs of their employees.

Some of the issues we expect to be addressed in the near future include the following:

- Details of how the employer penalty provisions will work, including information about the levels of coverage that will be needed to avoid penalties, the interplay of employer plans and the Exchanges and the availability of safe harbors and other methods for mitigating the penalty assessments;
- Further guidance and analysis of the rules for determining full time employee status – a key factor in assessing the pay or play penalty impact;
- Establishment of the State Exchanges, the benefits that must be offered under them and the involvement of the Federal government in those States that decide not to fully implement them;

- The cost impact of the transitional reinsurance fee that will be imposed on plans in 2014, 2015 and 2016 – currently rumored to be up to 2% of plan costs and likely to be a factor in employers' decisions about how to proceed with plan offerings moving forward; and
- How the new nondiscrimination rules affecting non-grandfathered insured plans (and perhaps impacting existing rules that apply to self-insured plans) will work and how they will affect an employer's ability to create plan options that address employee needs within the added cost framework of health care reform.

There are many questions still unanswered and there is much work to be done, but we anticipate the upcoming guidance will help us transition from the rough estimates of what the reform means to employers to specific game plans to address these issues as we approach 2014. Additionally, we expect the legal challenges that remain to the reform to play out in the near future and the results may impact certain provisions of the law. We will be monitoring developments closely and will address these issues and opportunities with you as they unfold.