

Legislative Highlights

January 2013



BlueCross BlueShield
of Illinois

Blue Cross and Blue Shield of Illinois is pleased to offer you the latest legislative updates. Below you will find the key highlights as we know them today.

ACA Fees Take Effect Jan. 1, 2014

The Affordable Care Act (ACA) established a number of taxes and fees that will affect fully insured and self-funded/ASO benefit plans starting on Jan. 1, 2014. Two of these fees are:

- the Transitional Reinsurance Program Contribution Fee or “Reinsurance Fee,” and
- the Annual Fee on Health Insurers or “Health Insurer Fee.”

While a significant amount of details on these fees is not yet known, Blue Cross and Blue Shield of Illinois (BCBSIL) is providing the latest information on what is known at this time and how these fees may impact your groups starting on Jan. 1, 2014.

Reinsurance Fee

The Reinsurance Fee applies to all groups, fully insured and self-funded/ASO, starting in 2014 through 2016. ACA established a temporary reinsurance program that would make reinsurance payments to health insurers who cover high-risk individuals.

ACA expects this temporary program to collect \$25 billion over its three-year life span (\$20 billion of which will be paid out as reinsurance payments and \$5 billion of which will go to the Treasury Department’s general fund) and requires the program to be funded by contributions or fees paid by health insurers and self-funded/ASO health plans.

The federal (and possibly state) government will issue rules and guidance that will set out the amount of the Reinsurance Fee. Recently, the United States Department of Health and Human Services (HHS) issued a proposed rule that sets the Reinsurance Fee amount for 2014 at \$5.25 per enrolled

covered life (or member), per month. That amount is not final and is subject to change when HHS issues its final rule. It’s also important to keep in mind that states may have the ability to require additional reinsurance contributions.

Beginning on Jan. 1, 2014, fully insured groups should expect to see the Reinsurance Fee reflected as a separate charge on their bills.

For self-funded/ASO groups, ACA states that these groups are responsible for the Reinsurance Fee. As a third-party administrator, BCBSIL may be able to assist in remitting Reinsurance Fees to the federal government, or appropriate reinsurance entity. However, we are not responsible for the fees themselves. As regulations and guidance regarding the Reinsurance Fee becomes available, additional information will be provided.



Health Insurer Fee

The Health Insurer Fee is established under ACA as an annual fee on health insurers, based on the value of health insurance premiums paid to insurers in the prior year. Like the Reinsurance Fee, the Health Insurer Fee begins on Jan. 1, 2014. However, this fee is permanent and will only apply to fully insured groups. It does not apply to self-funded/ASO groups.

In 2014, the total fee (submitted by health insurers to the federal government) will equal \$8 billion, and will increase after that, until it reaches \$14.3 billion in 2018. After 2018, the total fee will increase based on the rate of premium growth.

Because ACA requires the Health Insurance Fee to be calculated and pro-rated to each health insurer based on data and information from the prior year, health insurers won't know exactly how much to submit until the middle of the calendar year. For 2014, this means that the Health Insurer Fee will be calculated based on 2013 data and information and the exact amount of our portion of the fee won't be known until the middle of 2014. As additional information becomes available, Blue Cross and Blue Shield hopes to provide estimates, and eventually an exact figure regarding the effect of this fee on the cost of coverage.

The following are estimates from around the industry and marketplace:

- According to a March 2011 study conducted by Doug Holtz-Eakin, the former director of the Congressional Budget Office, the Health Insurer Fee may add as much as three percent per year to the average family premium.
- In a May 2011 letter to Senator Jon Kyl, the Joint Committee on Taxation estimated that repealing the Health Insurer Fee would reduce the premiums of plans by 2-2.5 percent.
- An actuarial study conducted by the firm, Oliver Wyman, examined the Health Insurer Fee impact on employers and families purchasing coverage in different segments of the commercial market. They noted that average premiums could increase by an average of 1.9 to 2.3 percent in 2014, and by an average of as much as 2.8 to 3.7 percent in 2023.
- A study conducted by the National Federation of Independent Business in November of 2011 suggested that insurance premiums could increase by 2-3 percent as a result of this new fee.

As with the Reinsurance Fee, beginning on Jan. 1, 2014, fully insured groups should expect to see the Health Insurer Fee reflected as a separate charge on their bills.

As outlined above, the Health Insurer Fee doesn't apply to self-funded plan sponsors (ASO groups).

ACA Fees Hotline Now Open for Calls

The newest resource to assist with questions related to the Affordable Care Act (ACA) Fees is now available from BCBSIL by calling 888-775-6892. The line is available from 8:30 a.m. to 5 p.m., CT, 7:30 a.m. to 4 p.m. MT, Monday through Friday. Future communications related to ACA fees will also direct audiences to use the hotline for questions.



HHS Releases Frequently Asked Questions Document on Exchanges, Market Reforms and Medicaid

The Department of Health & Human Services (HHS) recently issued a series of [Frequently Asked Questions](#) that is intended to answer questions states may have about Affordable Care Act-related subjects, including state-based and federally facilitated exchanges, Medicaid expansion and market reforms.

Topics the FAQ document addresses include:

- Deadlines for a state to apply for a state-based or state partnership exchange;
- Whether a state can partially expand Medicaid;
- Whether a state has a deadline to expand Medicaid;
- Whether a state will be charged fees for using federally managed data services to support an exchange;
- A state's role in a federally facilitated exchange;
- The proposed monthly user fee for federally facilitated exchanges;
- Whether Temporary Federal High-Risk Pools (Pre-existing Condition Insurance Plans) will operate after 2014;
- HHS's plans for exchange-related consumer outreach activities;
- The development of a streamlined consumer application for use on exchanges and in Medicaid and CHIP; and
- The display of qualified health plans on a federally facilitated exchange.

The FAQ document notes that HHS plans to release final rules for Essential Health Benefits and actuarial value and the market reforms early this year.

We will be reviewing this document and will provide more details as they become available.

IRS Releases ACA-Related Proposed Rule on Employer Shared Responsibility

On Jan. 2, 2013, the Internal Revenue Service (IRS) published a proposed rule pursuant to the Affordable Care Act (ACA) regarding employer shared responsibility for health insurance coverage. The proposed rule is now subject to public comment.

The requirements of the proposed rule would affect "applicable large employers," defined as employers that employed an average of at least 50 full-time employees on business days during the previous calendar year. Among other things, the proposed rule:

1. Proposes that an applicable large employer is required to offer coverage to employees and to their dependents, up to age 26. We are currently evaluating this in further detail, but the IRS' decision is based on its reading of a statute that requires dependents to be included. For purposes of this section, "dependent" does not include any individual other than children.
2. Addresses the definition of a full-time employee and provides for penalties for failure to provide minimum essential coverage.

According to the IRS, the proposed rule largely follows guidance in earlier IRS notices released in 2011-2012, with some modifications in response to public comments.

This proposed rule will be open for comment until March 18, 2013. The IRS also announced that it plans to hold a public hearing on the proposed rule on April 23, 2013. We are currently reviewing the proposed rule and will send you information on key aspects as it is available.

As a supplement to the proposed rule, the IRS issued a [FAQ](#) concerning the employer shared responsibility provisions, in order to assist employers in understanding these new requirements.



Administrative Simplification Operating Rules Project Update

The Administrative Simplification provision under the Affordable Care Act (ACA) establishes new requirements for administrative transactions that will improve the utility of the existing Health Insurance Portability and Accountability Act (HIPAA) transactions and reduce administrative costs. Specifically under ACA, Congress required the adoption of operating rules for the health care industry, and directed the Secretary of Health and Human Services (HHS) to adopt such rules.

The Secretary of HHS issued regulations in 2011 regarding the operating rules for two types of Health Plan HIPAA transactions: eligibility and claim status. The regulation states that covered entities must be in compliance with the

operating rules by Jan. 1, 2013, and imposes time requirements for health plan inquiry responses and certain system availability. The regulation also requires health plans to provide notices as to when their systems will not be available due to system maintenance.

Working with various clearinghouses, Blue Cross and Blue Shield of Illinois (BCBSIL) has taken the steps illustrated below, which are consistent with the first set of operating rules for the following administrative transactions that were successfully deployed in December 2012, prior to the Jan. 1, 2013, mandated deadline: Eligibility & Benefits (ANSI 270/271) and Claim Status (ANSI 276/277).

Steps taken:

- **Hours of operation have been extended** making online Eligibility & Benefits and Claim Status transactions available almost continuously (except for Sundays, 8 p.m. to midnight, CT, 7 p.m. to 11 p.m. MT, for health care professionals conducting such transactions.
- An **outage notification process** alerts health care professionals of any non-routine downtime situations.
- **Refined performance standards** help ensure acceptable transaction response times.

Questions regarding implementation of the Administrative Simplification operating rules may be directed to PECS@hcsc.net.

AskBlue Your Health Care Reform Questions

Blue Cross and Blue Shield of Illinois (BCBSIL) makes the Affordable Care Act (ACA) easier to understand with the [AskBlue Healthcare Reform Tool](#), a personal online guide to understanding reform. The AskBlue tool is accessible from our website [home page](#).

AskBlue places ever-changing health care reform information at users' fingertips in a way that is clear and easy to understand. AskBlue allows users to click, watch, listen and learn as a virtual assistant provides a general overview of certain aspects of reform.

Created by the Blue Cross and Blue Shield Association for all Blues Plans, the eight-minute tutorial is designed for both

individuals and those who run businesses. Users are asked a series of simple questions that allows the tool to build a specific list of provisions that apply to their situation and needs. At the end of the interactive lesson, users are given a summary of how ACA impacts them. There is also an opportunity to explore other unrelated ACA provisions.

In addition to the AskBlue tool, our Health Care Reform (HCR) Resource Center includes information on all the ACA provisions affecting individuals and businesses, and has an interactive timeline of key date changes through and beyond 2014. You can access the HCR Resource Center and the AskBlue tool by clicking on the "AskBlue" widget in the "Blue Features" section at the bottom of our website [home page](#).

Health Insurance Exchange Update

The U.S. Department of Health and Human Services (HHS) recently announced that New Mexico is conditionally approved to operate a state-based exchange. HHS will likely operate federally facilitated exchanges in Texas and Oklahoma. Illinois is still awaiting HHS approval for its state partnership exchange.

*This information is a high-level summary and for general informational purposes only.
The information is not comprehensive and does not constitute legal, tax, compliance or other advice or guidance.*