

# Navigating Health Care Reform

New comprehensive federal health care reform legislation means big changes for Georgia's nonprofit organizations, employees, and the people you serve.

The Georgia Center for Nonprofits is here to help you navigate these changes. As a first step, this document highlights the major changes in group health plan coverage and employer reporting requirements, and suggests resources to help you learn more.

Enacted in March of 2010, the *Patient Protection and Affordable Care Act* provides new benefits and rights for patients, provides tax credits for small employers, and mandates new employer reporting and notification requirements. While several major reforms of the law do not take effect until 2014 or later – such as state-based exchanges, free choice vouchers, no pre-existing condition exclusions, and “guarantee issue” requirements – a number of significant reforms were instituted in 2010 with other provisions taking effect in 2011 and 2012.

GCN is here to assist Georgia's nonprofit community every step of the way in making informed decisions about your evolving health insurance options. Our full-service brokerage is dedicated to meeting the full range of insurance and risk management needs for organizations, employees and individuals across our sector. So, think of us as your go-to resource whenever you need help navigating options and finding solutions.

Karen Beavor  
President and CEO  
Georgia Center for Nonprofits



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## KEY CHANGES IN PATIENT COVERAGE & RIGHTS

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### 2010

- Adult children coverage to age 26
- No pre-existing condition exclusions for enrollees under age 19
- Full preventive care coverage
- Emergency services without prior authorization are covered
- Choice of pediatrician and OB-GYN providers
- No lifetime limits on essential benefits
- Restricted annual limits on essential benefits
- No small group and individual policy rescissions allowed
- Revised appeals process
- Non-discrimination rules extended to insured plans
- Discounts and rebates for Medicare Part D participants

### 2011

- Limitations on over-the-counter reimbursements
- Penalty for non-medical HSA withdrawals

## KEY CHANGES FOR EMPLOYERS

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### 2010

- New Small Employer Tax Credit
- Automatic Enrollment requirements for large employers

### 2012

- Uniform Explanation of Benefits required
- W-2 Reporting of Value of Benefits
- Summary of Material Modification Notice required

## KEY CHANGES IN PATIENT COVERAGE & RIGHTS

Following are summary descriptions of the key changes that took effect in 2010 and those taking effect in 2011. Note that plans in effect before the new legislation was enacted are eligible to be “grandfathered” from some requirements [see page 5.]

### ***Legislative changes that took effect in 2010***

#### **Adult Children Coverage until Age 26**

Group health plans that provide dependent child coverage will be *required* to cover adult children until age 26. The exception is “grandfathered” plans, which may exclude adult children who are eligible for coverage under another employer-based health plan (other than one of a parent) until 2014.

#### **No Pre-existing Condition Prohibitions for Children under Age 19**

All group health plans are *prohibited* from applying pre-existing condition limits for children under age 19.

#### **Full Preventive Care Coverage**

All group health plans are required to provide “first dollar” coverage for preventive services defined as routine health care that includes screenings, check-ups, and patient counseling. This means plans are prohibited from imposing any cost-sharing requirements, such as co-pays or deductibles, on such items or services. “Grandfathered” plans are excluded from this requirement.

#### **Emergency Services**

Emergency services *must* be covered *without* prior authorization and treated as in-network. “Grandfathered” plans are excluded from this requirement.

#### **Choice of Pediatrician and OB-GYN Providers**

Plans *must* allow the plan member to designate a child’s pediatrician as the primary care provider, and cannot require authorization or referral for a participating OB-GYN. “Grandfathered” plans are excluded from this requirement.

#### **No Lifetime Limits on Essential Benefits**

Group health plans may no longer set lifetime limits on essential health benefits.

#### **Restricted Annual Limits on Essential Benefits**

Starting in 2014, annual limits on essential benefits will be prohibited. It is possible that “restricted annual limits” on essential health benefits will be permitted until 2014, if the Secretary of Health and Human Services (HHS) defines which limits are permitted.

### **No Policy Rescissions Allowed**

All group health plans and insurers are prohibited from rescinding coverage (except in limited acts of fraud or intentional misleading representation of facts). This applies primarily to individual and small group plans.

### **Revised Appeals Process**

Group health plans must have an “effective” internal and external appeals process for coverage determinations and claims, and they must continue coverage until the appeals process is resolved. “Grandfathered” plans are excluded from this requirement.

### **Non-Discrimination Rules Extended to Insured Plans**

Insured group health plans may *not* discriminate in favor of highly compensated individuals under Internal Revenue Code Section 105(h). This provision previously applied to self-funded plans only, which is why most executive medical plans were funded on a fully-insured basis. “Grandfathered” plans are excluded from this requirement.

### **Discounts and Rebates for Medicare Part D Participants**

Pharmacy manufacturers are required to provide name brand drugs at a 50% discount to Medicare Part D participants for unreimbursed prescription drug expenses that fall in period of non-coverage termed the “donut hole,” after a beneficiary has surpassed the initial prescription drug coverage limit and before their expense reaches the catastrophic coverage threshold. Medicare Part D participants receive \$250 rebate check for unreimbursed expenses that fall in the so-called “donut hole.”

## ***Legislative changes taking effect in 2011***

### **Limitations on Over-the-Counter Reimbursements**

Over-the-counter medications are *not* eligible for reimbursement under FSA, HRA, or other employer-sponsored health plans, nor can they be treated as a qualified medical expense for distributions from an HSA without a doctor’s prescription.

### **Health Savings Account Penalty**

Penalties for non-health-related distributions from HSAs increase from 10% to 20%.

## GRANDFATHERED VS. NON-GRANDFATHERED PLANS

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Some of the changes in coverage requirements taking effect will apply to *non-grandfathered plans only*. What does this mean?

Existing plans that were in place prior to the enactment of the new health care law on March 23, 2010 may be eligible to be “grandfathered,” or exempted, from a number of new requirements, provided that they meet the five specified essential criteria to maintain grandfathered status. Routine changes, such as changing insurers, are allowed as long as the same level of coverage is maintained.

Grandfathered plans are excluded from these new coverage requirements:

- Full preventive care coverage
- Revised appeals process
- Non-discrimination rules extended to insured plans
- Emergency services without prior authorization treated as in-network
- Choice of providers with respect to pediatrician and OB-GYN
- As long as a plan maintains its grandfathered status, it is exempt from most of these requirements indefinitely

### **For more information:**

Download the rules for maintaining grandfathered status [PDF]

[www.independentsector.org/uploads/Policy\\_PDFs/HHS\\_Grandfather.pdf](http://www.independentsector.org/uploads/Policy_PDFs/HHS_Grandfather.pdf)

## **KEY CHANGES FOR EMPLOYERS**

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### ***Legislative changes that took effect in 2010***

#### **Automatic Enrollment Requirements for Large Employers**

Employers with more than 200 employees that offer coverage must automatically enroll new full-time employees with the opportunity to opt out. The legislation does not set out an affirmative effective date; so technically, this provision was effective on March 23, 2010. However, employers cannot comply until regulations are issued.

### ***Legislative changes taking effect in 2012***

#### **Uniform Explanation of Benefits**

By March 23, 2012, employers must provide a summary of benefits and a coverage explanation to all participants at the time of enrollment and each subsequent year during annual enrollment. Willful failure to comply will result in a fine of up to \$1,000 per failure on a per-enrollee basis.

#### **W-2 Reporting of Value of Benefits**

Beginning with the 2012 calendar year (on W-2s filed in January 2013), employers must begin to report the “value” of employer-provided health coverage on an employee’s W-2.

#### **Summary of Material Modification Notice Required**

Employers must provide notice of any material modification to benefits 60 days in advance of the effective date of those modifications. Willful failure to comply will result in a fine of up to \$1,000 per failure on a per-enrollee basis.

## **TAX CREDIT FOR SMALL EMPLOYERS (2010-2013)**

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All small employers (defined as 25 or fewer employees and average wages below \$50,000 per year) immediately claim a tax credit when they pay for at least half of the health insurance premiums for their employees.

From 2010 through 2013, small employers can take this credit (in the form of 25% of the employer contribution for employee premiums) and apply the credit to taxes withheld through payroll. In 2014 and onward, the amount of the credit increases to 35%. A revised form 990-T needs to be filed where the tax credit is calculated. That credit is then taken against the employer tax withholding, thus reducing the employment tax liability.

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## GCN INSURANCE SERVICES



### Questions?

GCN Insurance Services is here to assist Georgia's nonprofit community in navigating the new health care legislation, and in helping you make informed decisions about insurance and risk management.

Our staff is glad to answer your questions, help assess your needs, and provide quotes. Call us at 678-916-3083 or 800-959-5015 (outside metro Atlanta) or e-mail [insurance@gcn.org](mailto:insurance@gcn.org).

### Delivering Risk Management Solutions for Georgia's Nonprofits

GCN's full-service brokerage is a comprehensive resource designed to meet the needs of nonprofit organizations, employees and individuals. We offer competitive rates from major carriers on the full range of insurance services – from major medical, dental and vision, to directors & officers liability, general liability, term life, disability, unemployment and workers compensation.

Our staff is dedicated to helping you find insurance solutions that are a good "fit" for your organization, employees and individuals. And, as a fellow nonprofit, we understand the specific challenges you face. We are dedicated to providing prompt, personal service for both your plan administrators and employees.

Consider us your go-to resource whenever you have questions about insurance or risk management.

Learn more at [www.gcn.org/Solve/Insurance.aspx](http://www.gcn.org/Solve/Insurance.aspx)

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### **GOVERNMENT RESOURCES**

**HealthCare.gov:** Dedicated resource from the U.S. Department of Health & Human Services which provides videos, timelines, explanations of provisions, and an interactive tool to help determine insurance coverage options. [www.healthcare.gov](http://www.healthcare.gov)

**Internal Revenue Service:** Small Employer Health Care Tax Credit FAQs. [www.irs.gov/newsroom/article/0,,id=220839,00.html](http://www.irs.gov/newsroom/article/0,,id=220839,00.html)

**Official State of Georgia health reform site.** [healthcarereform.georgia.gov](http://healthcarereform.georgia.gov)

#### **Federal Legislative Committees**

House of Representatives: Education & Workforce Committee. [edworkforce.house.gov/](http://edworkforce.house.gov/)

Senate: Health, Education, Labor, and Pension Committee. [help.senate.gov/](http://help.senate.gov/)

### **INDEPENDENT RESOURCES**

**Independent Sector:** FAQs for nonprofits, including Small Employer Health Credit. [www.independentsector.org/health\\_care](http://www.independentsector.org/health_care)

**The National Council of Nonprofits:** Advice about the Small Employer Health Credit. [www.councilofnonprofits.org/public-policy/federal-policy-issues/health-care-reform/small-employer-health-credit](http://www.councilofnonprofits.org/public-policy/federal-policy-issues/health-care-reform/small-employer-health-credit)

**HealthAffairs.org:** Top resource for the latest published research on healthcare reform. [content.healthaffairs.org/search?fulltext=health+reform&submit=yes&x=20&y=7](http://content.healthaffairs.org/search?fulltext=health+reform&submit=yes&x=20&y=7)

**Georgia Legislative Watch.** [www.georgialegislativewatch.com](http://www.georgialegislativewatch.com)

**Kaiser Family Foundation.** [healthreform.kff.org/](http://healthreform.kff.org/)

**Georgia Chamber of Commerce.** [www.gachamber.com/Health-Care.healthcare.0.html](http://www.gachamber.com/Health-Care.healthcare.0.html)

**Georgia Policy Center.** [forum.georgiapolicy.org/](http://forum.georgiapolicy.org/)



## About the Georgia Center for Nonprofits

Now in our 20th year, the Georgia Center for Nonprofits is a leading state nonprofit organization working to improve the quality of life in our communities and across our state by helping to create higher-performing nonprofits. GCN magnifies nonprofit impact in powerful ways—through training, consulting, networking, knowledge sharing, advocacy, and collaborations.

### DELIVERING COMPETENCY-BASED TRAINING.

We develop effective nonprofit leaders and professionals through year-round Nonprofit University conferences, certificate programs and training workshops.

[learn more](#)

### SERVING AS AN EXTENSION OF CAPACITY FOR OUR MEMBERS.

Our 1,100 member organizations benefit from access to exclusive networking and learning events, online resources, significant cost savings on essential products and services, ongoing communications and support. [learn more](#)

### PROVIDING CONSULTING EXPERTISE.

We also provide expert consulting services to help organizations develop clear and measurable impact goals and strategies to accelerate and grow their social impact. [learn more](#)

### ADVOCATING FOR OUR SECTOR.

As the leading advocate for Georgia's nonprofit sector, GCN helps policy-makers and the public understand and support the work of nonprofits. We promote partnerships between nonprofits and foundations, businesses, and government to meet critical needs. [learn more](#)

Visit [www.gcn.org](http://www.gcn.org)

Email [info@gcn.org](mailto:info@gcn.org)

Call 678-916-3000 or 800-959-5015

