

University of Wisconsin Center for Tobacco Research and Intervention (UW-CTRI) Summary of Selected Tobacco, Prevention, and Public Health Provisions from H.R. 3590, the Patient Protection and Affordable Care Act, and H.R. 4872, the Health Care and Education Reconciliation Act of 2010 signed into law March 23, 2010 and March 30, 2010 respectively

Document Prepared – July 2010

I. Insurance Reforms and Expansion of Coverage

Section Number and Summary	Implementation Date	Implications for Tobacco Control
<p>Section 1001: Amendments to the Public Health Service Act Summary: Amends the Public Health Service Act to require an issuer of health insurance to cover, without cost-sharing requirements, the following preventive health services: evidence-based items or services that have an A or B rating in the current recommendations of the United States Preventive Services Task Force (USPSTF); immunizations recommended by the CDC for the individual involved, and additional services for women, infants and children. It also states that nothing in this subsection shall be construed to prohibit a plan from offering additional preventative services than recommended by the USPSTF, or to deny coverage for services that are not recommended by the Task Force. This section would apply to health coverage that an individual enrolls in after enactment, but does not apply to coverage that an individual was enrolled in before enactment.</p>	<p>Plan years beginning on or after six months after passage of the Act.</p>	<p>Covered preventive services will include tobacco cessation pharmacotherapy and counseling services, which have received an A grade from the USPSTF.</p>
<p>Section 1201: Amendment to the Public Health Service Act Summary: Amends the Public Health Service Act to prohibit discriminatory premium rates, and only allows rates for a particular plan or coverage to vary by: <ul style="list-style-type: none"> Whether the plan covers an individual or family Rating area within a state as determined by that state Age, but the rate may not vary by more than 3 to 1 Tobacco use, but the rate may not vary by more than 1.5 to 1 <p>For family coverage, ratings variations permitted under this section will be applied based on the portion of the premium that is attributable to each family member covered.</p> <p>If a state permits insurers in the large group market to offer coverage through a State Exchange, then this section applies to the large group market. This section takes effect on January 1, 2014.</p> </p>	<p>January 1, 2014</p>	<p>Individuals may pay more for insurance if they use tobacco.</p>

<p>Section 1302: Essential Health Benefits Requirements Summary: Defines the essential health benefits that must be offered by a qualified health plan. Included in the definition of essential benefits are preventive and wellness services and chronic disease management, as well as substance abuse disorder services, maternity and newborn care, pediatric services, and prescription drugs. The scope of essential health benefits will be limited to that which is offered by a typical employer-sponsored plan. It also limits cost-sharing for these essential benefits.</p>	<p>January 14, 2014</p>	<p>In order to participate in State Exchanges, plans must offer preventive services that match a typical employer-sponsored plan. Along with Section 1001, this will expand access to tobacco cessation therapy so that it will be more likely for a plan to cover tobacco cessation services.</p>
<p>Section 2502: Elimination of Exclusion of Coverage of Certain Drugs Summary: Forbids any state from excluding FDA-approved smoking cessation agents from Medicaid drug coverage. This includes over-the-counter medications.</p>	<p>January 1, 2014</p>	<p>States currently have substantial leeway to refuse to cover certain drugs in their Medicaid drug coverage. This section mandates that cessation therapies are covered.</p>
<p>Section 4103: Medicare Coverage of Annual Wellness Visit Providing a Personalized Prevention Plan Summary: Adds Medicare coverage for a personalized prevention plan service. A personalized prevention plan for an individual includes a health risk assessment and may include other elements such as listing providers that regularly provide medical care to the individual, updating family history, BMI measurement, and other screenings for risk factors. The plan would take into account the findings of the health risk assessment and would be completed prior to or as part of a visit with a health professional. The personalized health advice may include community-based lifestyle interventions to reduce health risks and promote self-management and wellness, as well as lists of risk factors and a screening schedule. This section also directs the Secretary of HHS to establish publically available guidelines for health risk assessments, standards for interactive telephonic or web-based programs to give health-risk assessments, and a health risk assessment model.</p>	<p>January 1, 2011</p>	<p>Medicare insurance coverage of an annual wellness visit will allow physicians to give more attention to prevention and health risks, and will increase the likelihood that an individual's smoking status is evaluated. With the greater attention given to prevention and to health risk assessment, patients can be made more aware of the cessation services available to them.</p>

<p>Section 4104: Removal of Barriers to Preventative Services in Medicare Summary: Ends co-insurance requirements for most preventive services, and requires Medicare to cover 100 percent of the costs. Services that require no coinsurance or deductible would be the personalized prevention plan services mentioned in Sec. 4103, an initial preventive physical exam, and any covered preventive service if it is recommended with a grade of A or B by the USPSTF. This section takes effect January 1, 2011.</p>	<p>January 1, 2011</p>	<p>The removal of co-insurance requirements lowers financial barriers to access of tobacco cessation services and therapy for Medicare beneficiaries.</p>
<p>Section 4105: Evidence-Based Coverage of Preventive Services in Medicare Summary: Gives the Secretary of HHS the authority to alter coverage of existing preventive services, consistent with USPSTF recommendations. It would also allow the Secretary to withdraw Medicare coverage for services not rated A, B, C, or I by the USPSTF.</p>	<p>January 1, 2010</p>	<p>Preventive services that are not supported by evidence are less likely to be covered by Medicare. However, this is unlikely to affect any tobacco cessation services, which have an A grade from the USPSTF.</p>
<p>Section 4106: Improving Access to Preventive Services for Eligible Adults in Medicaid Summary: Expands the current Medicaid state option to provide screening and preventive services to include any preventive service recommended with a grade of A or B by the USPSTF and, for adults, all immunizations recommended by the CDC Advisory Committee on Immunization Practices. States that cover these additional services and prohibit cost-sharing for them would receive an increased FMAP (Federal Medical Assistance Percentage) of one percent for these services.</p>	<p>January 1, 2013</p>	<p>This section will expand access to tobacco cessation services and therapy for Medicaid beneficiaries, but it is uncertain to what extent it will be adopted because it is a state option rather than a required expansion of coverage.</p>
<p>Section 4107: Coverage of Comprehensive Tobacco Cessation Services for Pregnant Women in Medicaid Summary: Requires coverage in Medicaid of counseling and pharmacotherapy for cessation of tobacco use by pregnant women. Counseling and pharmacotherapy is defined in this section as “diagnostic, therapy, and counseling services and pharmacotherapy (including the coverage of prescription and non-prescription tobacco cessation agents approved by the FDA) for cessation of tobacco use,” and these services are limited to the recommended treatments for pregnant women as put forward in the 2008 Public Health Service Guideline, Treating Tobacco Use and Dependence. Other services that the Secretary recognizes as effective for cessation of tobacco use are also included.</p>	<p>October 1, 2010</p>	<p>Greatly expands access to tobacco cessation services for pregnant women in Medicaid. Of note, however, is the fact that the 2008 Public Health Service Guideline recommends person-to-person psychosocial counseling interventions, but does <i>not</i> recommend NRT for pregnant women.</p>

<p>This section also modifies the ability of states to exclude Medicaid coverage of non-prescription drugs to provide an exception for over-the-counter drugs for tobacco cessation for pregnant women. The drugs must be FDA-approved and recommended by the 2008 Public Health Service Guideline. It also removes cost-sharing in Medicaid for counseling and pharmacotherapy for cessation of tobacco use by pregnant women.</p>		
---	--	--

II. Expansion of Federal Public Health Efforts

Section Number and Summary	Implementation Date	Implications for Tobacco Control
<p>Section 4001: National Prevention, Health Promotion and Public Health Council Summary: Creates a council within the DHHS made up of the Secretaries of several cabinet-level departments, the Administrator for the EPA, the Chairman of the FTC, and the heads of several other Federal agencies, chaired by the Surgeon General. The council is meant to provide coordination among all Federal departments and agencies for prevention, wellness, and health promotion practices in the United States. In particular, the legislation expressly requires the council to provide recommendations to the President and Congress concerning "...the most public health issues...including the reduction of tobacco use" among other public health goals. It also requires the creation of a national prevention and public health strategy and commissions annual reports until 2015 on the activities, progress, and goals of this national strategy. It would also set forth measurable actions to carry out the strategy, and make recommendations for Federal prevention efforts. One component of this annual report will be a focus on national priorities on health promotion and behavior changes, including smoking cessation, nutrition, exercise, and prevention for the 5 leading disease killers in the United States. The report will also contain specific initiatives for a national strategy to achieve the measurable goals of Healthy People 2010 regarding nutrition, exercise, and smoking cessation.</p>	<p>National strategy must be made 1 year after implementation of Act</p>	<p>None, except for greater Federal attention and coordination on national strategies to reduce the prevalence of tobacco use.</p>

<p>Section 4002: Prevention and Public Health Fund</p> <p>Summary: Creates a Prevention and Public Health Fund administered by DHHS to provide expanded and sustained national investments in prevention and public health. The size of this fund is as follows:</p> <ul style="list-style-type: none"> 2010: \$500,000,000 2011: \$750,000,000 2012: \$1,000,000,000 2013: \$1,250,000,000 2014: \$1,500,000,000, and 2015: and each fiscal year thereafter, \$2,000,000,000. <p>The Secretary of HHS will transfer amounts in the Fund to accounts within DHHS to increase funding above FY 2008 levels for programs authorized by the Public Health Service Act for prevention, wellness, and public health activities. Explicitly mentioned examples of such programs include the Community Transformation grant program, the Education and Outreach Campaign for Preventive Benefits, and immunization programs.</p>	<p>Fiscal year 2010</p>	<p>Large amounts of money from this Fund will be appropriated to prevention and public health efforts which will clearly include efforts to increase tobacco cessation and prevention services. Determining which programs authorized under the Public Health Service Act will receive funding will be a major area of focus in public health and tobacco cessation more specifically as this Fund grows in size and importance. Every fiscal year, the Secretary and also key Senate committees will appropriate money from this Fund, so decisions about funding will be under annual review and reappraisal.</p>
<p>Section 4004: Education and Outreach Campaign Regarding Preventive Benefits</p> <p>Summary: Instructs the Secretary of HHS to provide for the planning and implementation of a national public-private partnership for a prevention and health promotion outreach and education campaign to raise public awareness of health improvement across the lifespan. It also requires the Secretary to establish and implement a science-based national media campaign on health promotion and disease prevention. It also directs the secretary to maintain an Internet website to provide information on guidelines for nutrition, smoking cessation, and chronic disease prevention for health care providers and consumers, and develop and operate a Federal internet website personalized prevention plan tool.</p>	<p>One year after enactment of this Act.</p> <p>Funding Appropriated: No more than \$500 million</p>	<p>None, other than greater public attention to health risks such as tobacco.</p>

<p>The Secretary will also develop and implement a plan for the dissemination of health promotion and disease prevention information to health care providers who participate in Federal programs such as Medicare and Medicaid. Funding for these activities will have priority over similar efforts by the CDC, but will not exceed \$500 million for the campaign and activities described.</p>		
<p>Section 10503: Community Health Centers and the National Health Service Corps Fund Summary: Establishes a Community Health Center Fund totaling \$11 billion over five years that provides expanded and sustained national funding for the Community Health Center program, the National Health Service Corps, and also appropriates funding for construction and renovation of community health centers. The original Patient Protection and Affordable Care Act appropriated less money than this, but H.R. 4872 (the reconciliation bill) subsequently increased the size of the fund.</p>	<p>Fiscal year 2010 Funding Appropriated: \$11 billion</p>	<p>None directly, but the expanded use of community health centers provide a safe place for individuals to receive counseling about tobacco use and information about tobacco cessation resources that they may not otherwise receive because the population that utilizes community health centers is less likely to have regular access to a physician or to preventive care.</p>

III. Pilot and Demonstration Programs

Section Number and Summary	Implementation Date	Implications for Tobacco Control
<p>Section 1201: Amendment to the Public Health Service Act Summary: Permits employers to offer employees rewards of up to 30 percent, increasing to 50 percent if the Secretary deems it appropriate, of the cost of coverage for participating in a wellness program and meeting certain health-related standards. It also establishes a 10-state pilot demonstration project to permit those states to apply similar such rewards for participating in wellness programs in the individual market.</p>	<p>Wellness program: January 1, 2014. Demonstration project: July 1, 2014 Funding Appropriated: Such funds as may be necessary for the demonstration project.</p>	<p>This section will test the effectiveness of offering employees financial incentives for meeting certain health standards such as tobacco cessation.</p>

<p>Section 4108: Incentives for Prevention of Chronic Diseases in Medicaid</p> <p>Summary:</p> <p>Instructs the Secretary of HHS to award grants to states to carry out initiatives that provide incentives to Medicaid beneficiaries to adopt and maintain healthy behaviors. The purpose of the program is to test approaches that may encourage behavior modification and lend themselves to scalable solutions. The program begins on January 1, 2011, and lasts for five years. A state’s proposed initiative must last at least three years. Initiatives must be comprehensive, evidence-based, widely available, and easily accessible. An initiative should have demonstrated success in helping individuals achieve one or more of the following:</p> <ul style="list-style-type: none"> Ceasing use of tobacco products Controlling or reducing their weight Lowering their cholesterol Lowering their blood pressure Avoiding the onset of diabetes or improving diabetes management <p>(Also, programs may address any co-morbidities related to these)</p> <p>Implementation of these programs is very flexible, and can involve arrangements with providers, community organizations, public-private partnerships, faith-based organizations, Indian tribes, or similar entities or organizations. For this program beginning in January 2011, \$100 million has been appropriated for these HHS grants.</p>	<p>January 1, 2011</p> <p>Funding Appropriated: \$100 million total</p>	<p>This section will test the effect of offering incentives to Medicaid beneficiaries who adopt healthier behaviors such as tobacco cessation.</p>
<p>Section 4201: Community Transformation Grants</p> <p>Summary:</p> <p>Creates a competitive grant program whereby the Secretary of HHS, acting through the CDC, awards grants to state and local governmental agencies and community-based organizations for implementation of evidence-based community preventive health activities. Such activities include, but are not limited to, “developing and promoting programs targeting a variety of age levels to increase access to nutrition, physical activity and smoking cessation, improve social and emotional wellness, enhance safety in a community, or address any other chronic disease priority area identified by the grantee.” There are many other focuses mentioned, and the topics eligible for funding are very broad. There is, however, a consistent focus on tobacco cessation as one of the key measures by which the grants are evaluated. There are authorized to be appropriated such funds as may be necessary for each fiscal years 2010 through 2014.</p>	<p>Fiscal years 2010 through 2014</p> <p>Funding Appropriated: Such funds as may be necessary for each fiscal years 2010 through 2014</p>	<p>None specifically; grants may include efforts to promote tobacco cessation.</p>

<p>Section 4202: Healthy Aging, Living Well; Evaluation of Community-Based Prevention; and Wellness Programs for Medicare Beneficiaries</p> <p>Summary: Authorizes the Secretary of HHS to award competitive grants totaling \$50 million to Health departments and Indian tribes to conduct five-year pilot programs to provide public-health-community interventions, screenings, and (when necessary) clinical referrals for individuals who are between 55-64 years old. Examples of community-based public health interventions include efforts to reduce tobacco use and substance abuse, improving nutrition, or increasing physical activity, among others. Screenings may include mental/behavioral health and substance abuse, smoking status, physical activity, and any other measure deemed appropriate by the Secretary. The section also orders the Secretary to conduct an evaluation of community-based prevention and wellness programs and develop a plan for promoting healthy lifestyles and chronic disease self-management for Medicare beneficiaries. The evaluation will include programs sponsored by the Administration on Aging that are evidence-based and have demonstrated potential to help Medicare beneficiaries make healthier lifestyle choices.</p>	<p>Fiscal years 2010 through 2014 Funding Appropriated: \$50 million</p>	<p>None specifically; grants may include efforts to promote tobacco cessation.</p>
<p>Section 4206: Demonstration Project Concerning Individualized Wellness Plan</p> <p>Summary: Instructs the Secretary to establish a pilot program to test the impact of providing at-risk populations who utilize community health centers funded under this section an individualized wellness plan designed to reduce risk factors for preventable conditions identified by a comprehensive risk-factor assessment. One of the main risk factors that the program will give its attention to is tobacco use, and individualized wellness plans are suggested to include smoking cessation counseling and services as a component. There are authorized to be appropriated such funds as may be necessary to carry out this section.</p>	<p>Upon enactment of this Act. Funding Appropriated: Such sums as may be necessary to carry out this section.</p>	<p>None specifically; tests the use of community health centers to provide individualized wellness plans to at-risk individuals, which includes tobacco use.</p>
<p>Section 10408: Grants for Small Businesses to Provide Comprehensive Workplace Wellness Programs</p> <p>Summary: Directs the Secretary to award grants to small businesses to provide employees with access to comprehensive workplace wellness programs. Wellness programs must include health awareness initiatives including preventive screenings and health risk assessments, and initiatives to change unhealthy behaviors and lifestyle choices. The grant program has been appropriated \$200 million for the period of fiscal years 2011 to 2015, and the money will remain available until expended.</p>	<p>Fiscal years 2011 through 2015. Funding Appropriated: \$200 million</p>	<p>None specifically.</p>