# FEDERAL HEALTHCARE REFORM:
## PATIENT PROTECTION AND AFFORDABLE CARE ACT
## TEMPORARY FEDERAL HIGH RISK POOL

On Tuesday, March 23, President Obama signed into law the "Patient Protection and Affordable Care Act" ("PPACA"). A reconciliation bill making changes to the Act was signed by the President on March 30. The PPACA as amended by the reconciliation bill is collectively referred to as the Act in this summary. This summary provides an overview of the new temporary high risk pool provisions of the Act.

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| ***Summary:*** | The Secretary of Health & Human Services, (HHS) must establish a new temporary high-risk insurance program before June 22, 2010, which will operate until January 1, 2014, when the new purchasing exchanges will be established. (PPACA §1101(a)) HHS is empowered to administer the program directly, or may contract with individual state governments or with private nonprofit entities. (PPACA §1101 (b)(1)-(2)) |
| ***Eligibility:*** | Enrollment in this program will be limited to individuals who are U.S. citizens that have not had creditable coverage for the 6 months prior to applying for participation in the new program, and have a pre-existing condition as described in guidance which is to be issued by the Secretary of HHS. (PPACA §1101 (d)) |
| ***Temporary High Risk Pool Requirements:*** | The are several prerequisites to establishment of a new qualified high risk pool, including:<br>• No preexisting condition exclusion periods on benefits;<br>• Out-of-pocket limits may not be greater than IRS guidelines for High Deductible Health Plans ($5,950 individual in 2010); (Internal Revenue Code (IRC) §223(C)(2))<br>• Minimum benefits provided under the program must have an actuarial value of 65%;<br>• Regarding premiums, rates charged must be based on the following conditions:<br>    o Age rate bands of 4 to 1;<br>    o Family size;<br>    o Geography; and<br>    o Cannot exceed 100% standard non-group rate<br>• HHS may adopt additional requirements. (PPACA §1101 (c)(2)) |
| ***High Risk Pool Payments:*** | The temporary high risk pool will pay the cost of claims (and administrative costs) in excess of the premiums collected from enrollees. (PPACA §1101(g)) |
| ***Differences from Existing High Risk Pools*** | High risk pools (HRPs) exist in 35 states. (10 other states, including R.I, have some other guarantee issue mechanism other than an HRP.) There are several important differences in the new program established by the PPACA:<br>• None of the existing HRPs require that an individual be without credible coverage for six months prior to applying for coverage.<br>• Premiums are capped in the existing HRPs between 125% and 250% of standard, non-group rates.<br>• Most existing HRPs allow for rate variations based on gender.<br>• Most existing HRPs have pre-existing condition coverage exclusion periods.<br>• In the vast majority of HRPs the claims incurred by the pool are covered by the combination of the premium paid by the individual, state funds, assessment on insurers and a federal contribution.<br><br>Because the new temporary high risk pool program is likely to be more appealing to high risk individuals, PPACA includes provision to deter plans from encouraging current members to shift to the new program. |

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| ***Anti-Dumping Provisions:*** | The Secretary of HHS shall establish criteria for determining whether insurers or employer based plans have dissuaded covered individuals from remaining enrolled based on health status.<br><br>Sanctions would include reimbursement for all the medical expenses incurred by the new high risk pool for any individual found to have been encouraged to disenroll and shift to the new program. (PPACA §1101 (e)) |
| ***Limited Federal Funding*** | Congress has appropriated $5 billion dollars to partially subsidize the claims paid under the new program. The money will be available July 1, 2010 to coincide with the beginning of state fiscal years. Allocation of the funds will be based on a state's population and medical costs similar to the way SCHIP funds are currently distributed. (Per Secretary Sebelius' April 2, 2010 letter to Governors). |
| ***HHS Implementation:*** | On April 2, 2010, HHS Secretary Sebelius sent a letter to the Governor of each state asking each state to designate a principal contact person by April 9. The Secretary has scheduled a conference call planned with designated state officials for mid-April. HHS will be providing additional details to assist states in deciding whether or not to participate, but the Secretary's letter indicates that states have the following options:<br>• States that have currently have a high risk pool could apply to administer a new high risk pool alongside a current state high risk pool;<br>• States (like RI) that do not currently have a high risk pool may establish a new temporary high risk pool;<br>• Build upon other existing coverage programs designed to cover high-risk individuals;<br>• Contract with a carrier of last resort or other carrier to provide subsidized coverage for the eligible population; or<br>• Do nothing, in which case HHS would carry out a coverage program in the state. |
| ***BCBSRI's Implementation Plan:*** | BCBSRI will be working with the OHIC to asses the potential opportunities and challenges of the program. |
| ***Effective Dates:*** | The program must be established by June 22, 2010 and will expire on January 1, 2014. |
| ***Open Issues:*** | PPACA is unclear whether coverage under the temporary high risk pool is individual only or whether family coverage is allowed. |
| ***References:*** | PPACA: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h3590enr.txt.pdf |

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