

Health Reform: Insurance Plans, Exchanges, and Mandates Syllabus

June 2012

Taught by Sandra Andreini, JD
Hamline University Law School

General Course Information

Course: Health Reform: Insurance Plan, Exchanges, and Mandates
Credits: 1
Classroom:
Days/Time: June 8. 1:00-5:00; June 9, 12:00-5:00; and June 10, 1:00-5:00
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Course Description and Learning Outcomes

The focus of this course is Title I (Quality, Affordable Health Care for All Americans) of the Patient Protection and Affordable Care Act of 2010 (the Act), as it relates to changes to commercial health plans. First, students will develop an understanding of the federal regulatory scheme before the passage of the Act, focusing on the Employee Retirement Income Security Act (ERISA) and the Public Health Services Act (PHSA). Students will also gain an understanding of the mechanics of how the Act was passed into law. Additionally the course will examine the changes to group health plans and individual health insurance coverage beginning with the immediate reforms of eligibility, benefits and allowable plan designs. Students will explore the challenges faced by employers, insurers and health law practitioners in ensuring compliance with these changes. This course will then focus on the longer term reforms with a focus on the guarantee issue provisions, the individual mandate and the 2014 Exchange. Finally, students will review and evaluate the constitutional challenges to the Act through class discussion and small group exercises.

Course Materials

There is no textbook for this course. The required reading materials are listed below. I have also provided a links to the text of the Act and Supreme Court briefs. I will likely provide additional links to statutes and regulations that related to the topics discussed in the first two days of class.

Technology Policy

In order to facilitate an interactive class and group discussions, there may be occasions when the class will be asked to close or disable their computers/tablets/smartphones. At other times, students may use technology for

note-taking, reference to assigned readings and, if requested by the instructor, for brief web-based research. **If a student uses classroom time to read or send email or text messages, visit websites or engage in any other technology-based activities (including phones and recording devices) for any other purpose, that student will be asked to drop the course and will not receive academic credit.**

Course Evaluation/Grading

1. **Exam.** There will be a take-home, open-book final exam. Students may pick up their exam anytime between Sunday June 10th (after class) and Saturday June 23rd. Students will have 72 hours between the time they “pick-up” the exam online and the time they “return” it. **The exam will account for 100% of a student’s grade, except as noted below.**

Note 1: Exams will be graded on both substance and drafting. They should be well-written and well-reasoned, not simply a recitation of course content.

Note 2: Per AR-105 (B)(8): A student who does not take a scheduled examination will receive a grade of “F” for that examination, unless properly excused. In addition, any student who does not turn in a required paper on the scheduled date will receive a grade of “F” for that paper, unless properly excused. Failure to meet any course requirement can be the basis for a final grade of “F” in the class, unless properly excused.

2. **Small group exercise.** There will be a small group exercise on the final day of class focused on the legal arguments currently before the United States Supreme Court on the effect of the Anti-Injunction Act and the constitutionality and severability of the individual mandate.
3. **Participation.** **I reserve the right to “bump” up students’ final grades by ½ grade for meaningful class participation.** “Meaningful” means thoughtful, well prepared and attentive participation in class discussion (quality being more important than quantity), including, but not limited to, the small group exercise discussed above.

Course Attendance

At the beginning of each class, a roster will be circulated for students to sign. Given the short, intensive course duration, students should plan to attend during all

classroom time. If possible, please advise the instructor in advance if you anticipate you may need to miss any portion of classroom time. Any unexcused absence will be treated as “excessive.” Exceptions to this policy will be made on a case-by-case basis.

Instructor Affiliations/Disclaimer

During my “day job” I am Director and Senior Counsel for HealthPartners, Inc. As such, I am responsible for providing advice and counsel regarding federal law compliance for the commercial health plans offered by HealthPartners. Accordingly, much of what I will be teaching about draws on my legal and practical knowledge of health plan organizations and those that they serve. However, all of the opinions I may express are my own and do not represent the views of my employer. Likewise, the situations that I discuss or put on the exam may, by coincidence, be similar to situations encountered by HealthPartners—or indeed, by many other local and national health plan organizations – but do not reflect specific situations involving HealthPartners.

Overview of Course Schedule and Reading Assignments

We will start class *promptly* at 1:00 (Friday and Sunday), 12:00 (Saturday) and finish by 5:00 each day. We will take one short break during each session.

The course schedule, topics and associated reading assignments are laid out below. I reserve the right to modify the schedule to accommodate class discussion and questions. *Note: Due to our limited classroom time, we will cover some of the topics listed below in detail, and others at a more cursory level. Also, if a topic takes more time or less time than was allotted to it on the syllabus, I may modify the amount of time spent on a topic that follows. If a topic is listed below, you should expect it to appear on the exam; however, the extent to which you will be expected to address the topic on the exam will generally be commensurate with how much lecture time is dedicated to the topic. If there is no reading or reference material provided for a topic, the exam question will be based solely on the information presented in class.*

Links to Required Reading Materials

www.kff.org/healthreform/upload/8061.pdf

www.kff.org/healthreform/upload/8270-2.pdf

*Note: Please read the first summary prior to the first class and the second summary, prior to the third class. We will not be touching on every topic in the summaries. You will only be responsible for the topics listed in the **Course Schedule** below.*

Links to Additional Reference Materials

www.healthcare.gov/law/full/index.html

- Follow the links to Title I

Note: For purposes of this class, you are not required to read the entire text of Title I of the Act, however, you may find it helpful to skim it to get a sense of the structure.

www.americanbar.org/publications/preview_home/11-398.html

www.americanbar.org/publications/preview_home/11-393.html

Note: The two links above will take you to all of the briefs filed with the Supreme Court on the constitutionality of the individual mandate and the question of severability (in that order above). I highly recommend that you choose a brief on both sides of the issues and review the arguments – it will provide a great framework for our class discussion on Day 3.

Finally, as we discuss the overview on the 1st day and requirements of Title I and their implementing regulations on the 2nd day, I may provide you with additional links to reference materials during class.

Course Schedule

Friday, June 8, 2012, 1:00-5:00 (Class #1)

- Introductions
- Syllabus and Grading

An Overview of the Federal Regulatory World Before the Passage of the Act.

- Public Health Services Act (PHSA)
- Employee Retirement Income Security Act (ERISA)
- Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)
- Health Insurance Portability and Accountability Act of 1996 (HIPAA)
 - Portability
 - Non-discrimination
- Women's Health and Cancer Rights Act (WHCRA)
- Newborn's and Mother's Health Protection Act (NMHPA)
- Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA)
- Michelle's Law
- ERISA pre-emption of state law

The Passage of the Act.

- The Patient Protection and Affordable Care Act of 2010
- Title X changes
- Reconciliation

Note: If time permits, we will begin to discuss the topics listed for day two – we have a lot to cover on Day 2!

Saturday, June 9, 2012, 12:00-5:00 (Class #2)

Immediate Reforms (2010-2011)

- Threshold Issue: Grandfather Provisions
- Coverage of Dependents to age 26
- Prohibition on Pre-Existing Condition Exclusions for Children Under 19
- Essential Health Benefits
- Prohibition on Annual Limits
 - Restricted Annual Limits until 2014
- Prohibition on Lifetime Limits
- Prohibition on Cost Sharing for Preventive Services
- Claims and Appeals
- Prohibition of Rescissions
- Emergency Services
- Access to Professionals (Primary Care, Pediatricians, OB/GYN)
- Medical Loss Ratios
- Premium Rate Review
- Mental Health Parity
- Changes for Reimbursement for OTCs

Changes in 2012 and Beyond

- Uniform Coverage Summaries for Consumers
- Flexible Spending Account Limits
- Co-ops
- Employer Requirements
- The Basic Health Plan
- The Individual Mandate
 - Minimum Essential Coverage
- The Establishment of the Exchange
 - Federal or State?
 - Qualified Health Plans
 - Precious Metal Levels
- Cadillac Tax

Note: Given the large amount of material scheduled for Day 2, we may spend the first part of class on Day 3 covering anything that we don't get to on Day 2.

Sunday, June 10, 2012 (Class #3)

Is the Individual Mandate Unconstitutional?

- Threshold Question: Does the Anti-Injunction Act bar the Supreme Court from Ruling on the Merits of the Challenge?
- Overview of Constitutional Challenge to the Individual Mandate
- Overview of the Severability Arguments
- Small Group Exercise and Large Group Report/Discussion