



MEMORANDUM

October 6, 2010

**To:** Senator John Cornyn  
[REDACTED]

**From:** [REDACTED], Specialist in American National Government,  
Government and Finance Division, [REDACTED]

**Subject:** **Final Rules Pursuant to the Patient Protection and Affordable Care Act During the First Six Months of Implementation**

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This memorandum responds to your request that CRS identify the final rules that were issued pursuant to the Patient Protection and Affordable Care Act (PPACA, P.L. 111-148, March 23, 2010) during the first six months of implementation (i.e., as of September 23, 2010).<sup>1</sup> Although federal agencies have published proposed rules and other documents related to PPACA,<sup>2</sup> you requested that we focus on final rules. To identify these rules, we searched the GPO Access electronic rulemaking database (<http://www.gpoaccess.gov/fr/advanced.html>) using the advanced search mechanisms that allow identification of only final rules, and searching on the phrase "Patient Protection and Affordable Care Act." This approach identified a total of 12 final rules that had been issued pursuant to PPACA.<sup>3</sup> Most of these rules were interim final rules, which were issued without a prior proposed rule.<sup>4</sup> **Table 1** below lists the 12 PPACA final rules that were published in the *Federal Register* as of September 23, 2010, along with other information about the rules.

I trust that this information is helpful. If you have any other questions, please do not hesitate to call.

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<sup>1</sup> Following the enactment of PPACA, the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) amended PPACA and made other changes. Both P.L. 111-148 and P.L. 111-152 are collectively referred to as PPACA. A previous CRS report identified PPACA rules issued in the first four months of implementation (i.e., as of July 23, 2010). See CRS Report R41346, *PPACA Regulations Issued During the First Four Months of the Act's Implementation*, by Curtis W. Copeland.

<sup>2</sup> See, for example, U.S. Department of Health and Human Services, Office of Consumer Information and Insurance Oversight, "Planning and Establishment of State-Level Exchanges; Request for Comments Regarding Exchange-Related Provisions in Title I of the Patient Protection and Affordable Care Act," *75 Federal Register* 45584, August 3, 2010.

<sup>3</sup> The search identified several other final rules that mentioned PPACA, but these rules did not implement the act. For example, an April 15, 2010, final rule on the Medicare Advantage program noted that Section 3202 of PPACA will apply to Medicare Advantage plans offered in 2011, and discusses cost sharing for certain services. However, the rule itself does not implement PPACA. See U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, "Medicare Program; Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs; Final Rule," *75 Federal Register* 19678, April 15, 2010.

<sup>4</sup> Interim final rulemaking is a particular application of the "good cause" exception to notice-and-comment rulemaking in the Administrative Procedure Act (5 U.S.C. §553(b)(3)(B)). In interim final rulemaking, the issuing agency publishes a final rule without a prior notice of proposed rulemaking, but offers a post-promulgation opportunity to comment. Interim final rules may take effect immediately, or their effective dates may be delayed until a certain period after the date the rules are published.

Table I. Final Rules Pursuant to PPACA as of September 23, 2010

Publication Date/Citation	Department/Agency or Office	Summary	Dates
May 5, 2010 <i>75 Federal Register 24437</i>	Department of Health and Human Services (HHS)/Centers for Medicare & Medicaid Services (CMS)	Interim final rule implementing the requirement in Section 6402(a) of PPACA that providers of medical or other items or services to include their National Provider Identifier (NPI) on all applications to enroll and on all claims for payment. The rule also requires physicians and eligible professionals to order and refer covered items to be enrolled in Medicare, and adds requirement to provide documentation on referrals to programs at high risk of waste and abuse.	Effective on July 6, 2010. Comment period ended on July 7, 2010.
May 5, 2010 <i>75 Federal Register 24470</i>	HHS/Office of the Secretary	Interim final rule implementing the requirement in Section 1103(a) of PPACA to establish a website through which individuals and small businesses can obtain information about the insurance coverage options available in their state. The rule adopts the categories of information that will be collected and displayed, and the data required from issuers and requested from states, associations, and high risk pools.	Effective on May 10, 2010. Comment period ended on June 4, 2010. The initial version of the website became available July 1, 2010.
May 5, 2010 <i>75 Federal Register 24450</i>	HHS/Office of the Secretary	Interim final rule implementing the Early Retiree Reinsurance Program in Section 1102 of PPACA. This temporary program (ends by January 1, 2014) provides reimbursement to participating employment-based plans for a portion of the cost of health benefits for early retirees and their spouses/dependents (certain claims between \$15,000 and \$90,000).	Effective on June 1, 2010. Comment period ended on June 4, 2010.

Publication Date/Citation	Department/Agency or Office	Summary	Dates
May 13, 2010 75 <i>Federal Register</i> 27122	Department of the Treasury(Treasury)/Internal Revenue Service (IRS); Department of Labor (DOL)/Employee Benefits Security Administration (EBSA); HHS	Interim final rule implementing the requirements in Section 1001 of PPACA for group health plans and health insurance coverage in the group and individual markets regarding dependent coverage of children who have not attained age 26.	Effective on July 12, 2010. The requirements generally apply for plan years beginning on or after September 23, 2010.  Comment period ended on August 11, 2010.
May 26, 2010 75 <i>Federal Register</i> 29447	HHS	Interim final rule (required by Section 10501(l) of PPACA) defining “underserved rural community” for purposes of the Rural Physician Training Grant Program in section 749B of the Public Health Service Act.	Effective on June 25, 2010.  Comment period ended on July 26, 2010.
June 15, 2010 75 <i>Federal Register</i> 33683	Treasury/IRS	Final and temporary rules providing guidance on the indoor tanning services excise tax imposed by Section 10907 of PPACA.	Effective on June 15, 2010 The tax applies to payments after June 30, 2010.  No comments were requested.
June 17, 2010 75 <i>Federal Register</i> 34538	Treasury/IRS; DOL/EBSA; HHS	Interim final rule implementing the rules for group health plans and health insurance coverage in the group and individual markets regarding status as a “grandfathered” health plan (Section 1251 of PPACA).	Effective on June 14, 2010, except that certain amendments are effective July 12, 2010.  Comment period ended on August 10, 2010.
June 28, 2010 75 <i>Federal Register</i> 37188	Treasury/IRS; DOL/EBSA; HHS	Interim final rule implementing the rules for group health plans and health insurance coverage in the group and individual markets regarding preexisting condition exclusions, lifetime and annual dollar limits on benefits, rescissions, and patient protections (Sections 2704, 2711, 2712, and 2719A of PPACA).	Effective on August 27, 2010. Some of the requirements apply for plan years starting on or after September 23, 2010, while other requirements begin for plan years starting on or after January 1, 2014.  Comment period ended on August 27, 2010.
July 19, 2010 75 <i>Federal Register</i> 41726	Treasury/IRS; DOL/EBSA; HHS	Interim final rule implementing the requirements for group health plans and health insurance coverage in the group and individual markets (Section 2713 of the Public Health Service Act as revised by PPACA).	Effective on September 17, 2010. Applicable to group health plans and group health insurers for plan years beginning on or after September 23, 2010.  Comment period ended on September 17, 2010.

Publication Date/Citation	Department/Agency or Office	Summary	Dates
July 23, 2010 75 <i>Federal Register</i> 43330	Treasury/IRS; DOL/EBSA; HHS	Interim final rule implementing the requirements regarding internal claims and appeals and external review processes for group health plans and health insurance coverage in the group and individual markets (Section 2719 of the Public Health Service Act as revised by PPACA).	Effective September 21, 2010. Applicable to group health plans and group health insurers for plan years beginning on or after September 23, 2010.  Comment period ended on September 21, 2010.
July 30, 2010 75 <i>Federal Register</i> 45014	HHS/Office of Consumer Information and Insurance Oversight	Interim final rule implementing the requirement in Section 1101 of the act that the Secretary establish a temporary high risk health insurance pool program to provide affordable health insurance coverage to uninsured individuals with pre-existing conditions.	Effective September 30, 2010. The program will continue until 2014, when exchanges established under Sections 1311 and 1321 of the act will be available.  Comment period ended on September 28, 2010.
August 16, 2010 75 <i>Federal Register</i> 50042	HHS/CMS	Final rule and interim final rule revising the Medicare inpatient prospective payment systems (IPPS) for operating and capital-related costs of acute care hospitals to (in part) "implement certain provisions in the Affordable Care Act and other legislation." The PPACA portion of the rule implemented a supplemental proposed rule published on June 2, 2010.	Effective October 1, 2010.  Comments on the interim final rule portion ended on September 28, 2010.

Source: CRS.