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WELFARE BENEFITS, HEALTH AND INSURANCE LAWS ALERT

PATIENTS' BILL OF RIGHTS AND RESPONSIBILITIES AMENDED TO ADOPT MAIN PROVISIONS OF THE FEDERAL HEALTH REFORM STATUTE

Puerto Rico's Act No. 161 of November 1, 2010 (hereon "Act No. 161"), amends the local statute known as the Patients' Bill of Rights and Responsibilities to incorporate various provisions of the recently enacted federal Patient Protection and Affordable Care Act (hereon "PPACA"). The purpose of Act No. 161 is to afford to the people of Puerto Rico the same protections and access to medical care under individual and group health plans as PPACA does.

The following are highlights of Act No. 161's additions to the Patients' Bill of Rights and Responsibilities:

- The right of all persons to have access to affordable health plan coverage;
- The protection against discrimination or denial of health care due to a patient's medical history or pre-existing medical conditions (immediately applicable to those under 19, and applicable to all from 2014 onward);
- The prohibition of annual and/or lifetime limits on essential health benefits provided under a health plan;
- The mandate that health plans cover preventive medical care without additional cost to plan participants, including the preventive medical coverage of their children;

- The requirement of health plan coverage of unmarried dependent plan participants under the age of 26;
- The right to direct access to gynecological and obstetric care without referrals and/or preauthorizations in the case of in-network providers;
- When dependent coverage is provided, the right of parents and legal guardians to select pediatricians as their minor dependent children's primary care physicians from among the in-network providers;
- The requirement that health plans contain, disclose and implement an internal claims procedure and an external review procedure, which is to be regulated and approved by the Puerto Rico Insurance Commissioner; and
- The prohibition against revocation or amendment of health plan coverage of a patient once he or she is included as a plan participant, except in case of non-payment of premiums and non-compliance with grace periods provided by the Insurance Code, fraud, or an intentional misrepresentation of a material matter.

It should be noted that Act No. 161 does not exactly mirror PPACA, although it provides that it shall have the scope and will be governed in conformity with the requirements and proceedings provided in PPACA and related federal and state regulations. For example, Act No. 161 is more beneficial to the patient than PPACA by including the prohibition against discrimination or denial of health care due to a patient's medical history in addition to pre-existing medical conditions. Moreover, Act No. 161 provides a greater benefit to patients as well regarding its immediate prohibition of annual limits of medical coverage. Under PPACA, annual limits are phased out gradually until 2014, by which year said limits will be prohibited entirely.

Clearly, both Act No. 161 and PPACA have far reaching consequences for all employers who are sponsors of group health plans, as well as for all insurance companies which provide health insurance policies. If you are an employer and a health plan sponsor, you may direct your questions regarding this matter to any of the attorneys listed below, members of our [Welfare Benefits & ERISA Litigation Practice Team](#).

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