What kinds of health plans are governed by the PPACA, and what plans are not covered?

Health care reform covers insured and self-funded comprehensive medical health plans. In effect, the PPACA governs major medical insurance and self-insured major medical plans.

Health care reform does not regulate excepted benefits, which include standalone vision, standalone dental, cancer, long-term care insurance, Medigap insurance, certain flexible spending accounts (“FSAs”), and accident and disability insurance that make payments directly to individuals. However, it does impose an annual limit of $2500 per year on health FSAs.

The PPACA also does not affect retiree-only plans. Although it removed the exemption for retiree-only plans and excepted benefit plans from the PHS Act, it left those exemptions in the IRC and ERISA. The preamble and footnote 2 of interim final grandfathered plan regulations explain that the exemption for retiree-only plans and excepted benefit plans still applies for those plans subject to the IRC and ERISA.

With respect to retiree-only and excepted benefit plans, federal regulators have decided that even though those provisions were removed by the PPACA, they will read the PHS Act as if an exemption for retiree-only and excepted benefit plans was still in effect. Federal regulators have encouraged state insurance regulators to do the same, although in any given state it is possible, although unlikely, that regulators will decide to enforce the PPACA mandates on all fully insured plans.