

Understanding Health Care Reform

July 24, 2013

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Welcome

- One-hour webinar
- Technical questions – 800-263-6317
- Participants are muted
- Use Question/Chat feature to submit questions
- HRCI credit will be given for participation

Agenda:

- Purpose of the Law
- Recent Developments
- Timeline of Major Provisions
- Small Employer Community Rating
- Large Employer “Pay or Play”
- Exchange Overview

At its core, the law is about access to health coverage. The goal is health insurance coverage for all Americans:

- Individual Coverage Mandate
- Large Employer Penalties for not offering coverage
- Insurance “Exchanges”
- Subsidy money for low earners to purchase insurance
- Expansion of Medicaid eligible population
- New Taxes & Fees to support subsidies and Medicaid expansion

RECENT DEVELOPMENTS



Employer Mandate Penalties Delayed Until 2015

- Large employer coverage penalties postponed to 2015
- Announced with delay of information reporting by employers, health insurance issuers and self-funded plan sponsors
- Per Treasury, delay was required because of issues related to the reporting requirement
- Administration plans to use additional time to simplify reporting requirements. Treasury plans to publish proposed rules later this summer.



Employer Mandate Penalties Delayed Until 2015

Delay does not affect other provisions of the ACA. FOLLOWING PROVISIONS (among others) CONTINUE TO APPLY:

- **Individual mandate.** IRS will monitor compliance through self-certification on each individual's tax return
- **Exchange notice.** Unless administration delays exchanges, employers are required to send the marketplace notice. The affordability/minimum value box on the notice is still relevant.
- **Health Insurance Reforms** go into effect as of the first day of the plan year that begins in 2014 (e.g. 90 day waiting period, OPM caps, copayment accumulation rules, Community Rating)



Employer Mandate Penalties Delayed Until 2015



- **PCORI Fee** (due at the end of this month if you have a calendar plan year or a plan year that ended in October or November, 2012)
- **Transitional Reinsurance Fee**
- **W-2 Reporting**
- **Limit on Health FSA salary reductions**



Employer Mandate Penalties Delayed Until 2015

- Unclear how the new deadline will impact guidance already issued
- There may be no transition relief going into 2015:
 - If you use a 12 month stability period; standard measurement period may have to be 12 months
 - Likely have to assume an employee will be employed throughout the initial measurement period when making variable employee determination
 - May not be any fiscal year transition relief - will likely go live 1/1/15 without regard to your plan year
- 2013/2014 should be viewed as a time to “tweak” process—not ignore it



TIMELINE OF MAJOR PROVISIONS



2010 - Accomplished

- ✓ Extended coverage for young adults (Age 26)
- ✓ Eliminating pre-existing condition exclusions for children
- ✓ 100% coverage for preventative services [N-GFP]
- ✓ Prohibiting Rescissions
- ✓ Eliminate Lifetime Limits
- ✓ Began phase out of Annual Limits
- ✓ New Appeals Process – *internal and external review*
- ✓ Mandatory “Reasonable Breaks” for nursing mothers (50+)
- ✓ Small Business Tax Credits
- ✓ Indoor Tanning Services Tax – 10%



2011 - Accomplished

- ✓ Medical Loss Ratio regulations - *80% for SG and 85% for LG*
- ✓ Over the counter Rx no-longer reimbursable under qualified plans (HSA, FSA, HRA)
- ✓ Increased tax on withdrawals from HSA (20%)

2012 - Accomplished

- ✓ Preventative care for women with no cost share (well-woman visits, breastfeeding support, & contraceptives) * [N-GFP]
- ✓ Reporting aggregate cost of health coverage on W-2. Optional for small employers (file >250 Forms W-2). Mandatory for large employers.
- ✓ Uniform Summary of Benefits and Coverage

**Exemption for religious institutions*

- ❑ Limit medical FSA contributions to \$2,500 annually
- ❑ Eliminate deduction for Medicare Part D subsidy
- ❑ Increased threshold for individual medical expense deduction to 10%
- ✓ Additional taxes for high wage earners:
 - .9% increase in Medicare taxes on wages in excess of \$200K for single individuals and \$250K for joint filers
 - 3.8% “unearned income” Medicare tax is imposed on same individuals

2014

- Individual coverage mandate
- Health insurance exchanges
 - Tax credits for lower earners (100% to 400% FPL)
- Guaranteed issue policies
- Prohibit adult pre-existing condition limitation
- Small Business & Individual policies subject to *Community Rating*

- Policy limits on cost sharing – Out of Pocket Maximum for Essential Health Benefits may not exceed those for HDHP plans (2014 limits are \$6,350 for Individual and \$12,700 for Family. New accumulation rules (Co-pays must count toward OPM). *[N-GFP]*
- Final phase out of annual policy limits
- No enrollment waiting periods over 90 days
- Employer Wellness program expansion – 30%, 50% for tobacco cessation programs



- ❑ Employer coverage requirements, if > 50 Full Time Equivalent Employees

- ❑ High cost plan excise tax – 40% for benefits in excess of \$10,200 Individual / \$27,500 Family.

Pending

- Nondiscrimination Rules for Fully Insured Plans [*N-GFP*]
- Employers 200+ must auto-enroll employees in health plan (opt out)

SMALL EMPLOYER: COMMUNITY RATING



Adjusted Community Rating

Beginning the renewal following 1/1/14, premium rating methods for *small groups* will change.

Plans will be rated on:

- Age Bands (3:1)
- Geography
- Plan Design
- Tobacco Use (1.5:1)

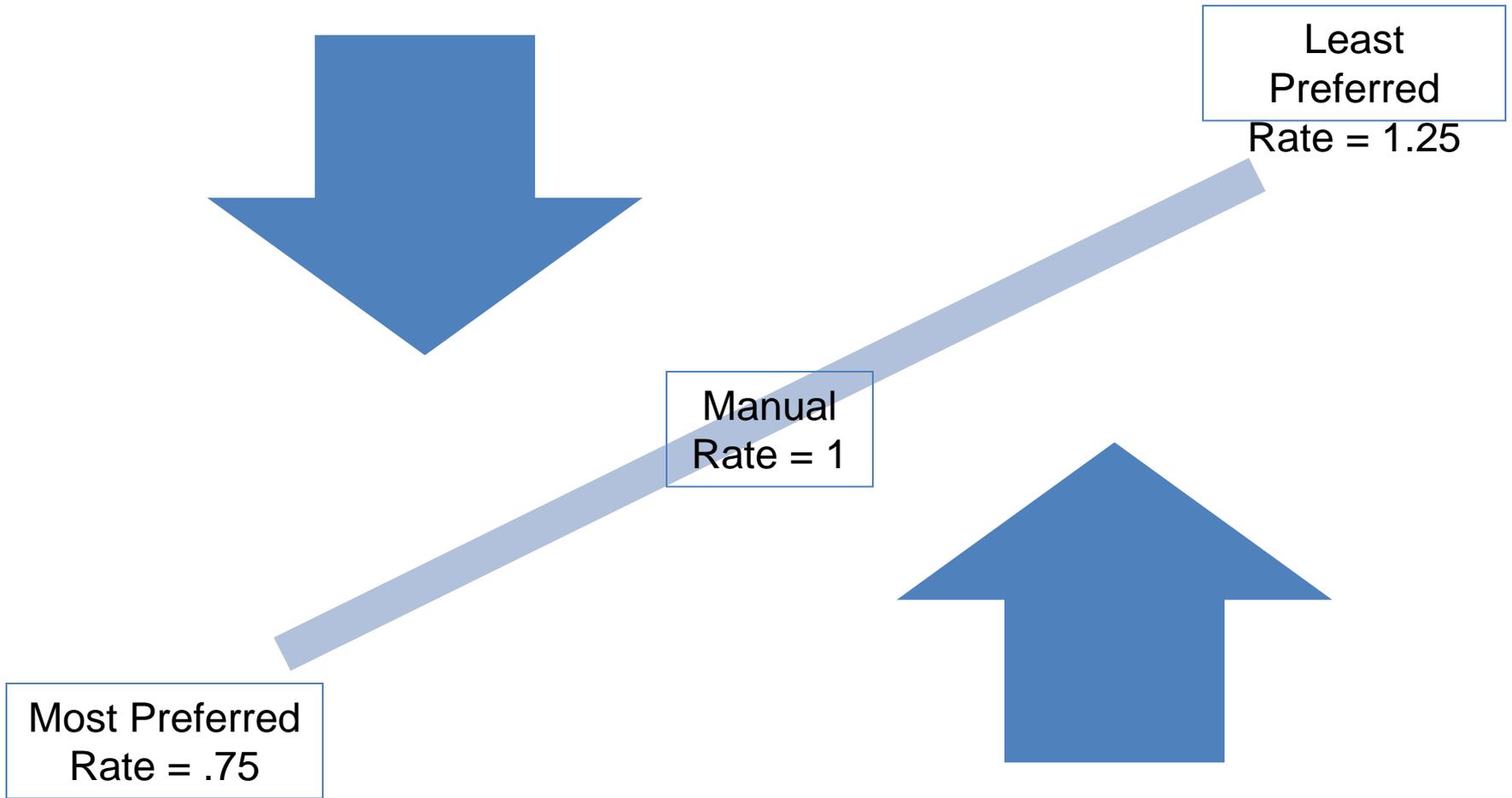
Plans will no longer be rated on:

- Medical information/claims projections
- Gender
- SIC Code / Industry
- Expanded Age Bands
- Chamber Discounts

Preferred groups expected to pay more. Non-preferred groups expected to pay less. The costs of manual rates for all small groups expected to increase.



Current Rating Variance



Employer Responses to ACR

- Some employers considering an early renewal of 12/01 to avoid this for one more year
- Some employers have considered self-funding either independently or via a Captive to avoid ACR

**Note that in Georgia “Small Group” is defined today is 2 – 50 FT EE for rating purposes. This will be defined nationally as 2 – 99 for rating purposes in 2016.*



LARGE EMPLOYER: PAY OR PLAY



Which Employers are subject and what triggers a penalty?

- Beginning in **2015**, ACA imposes a penalty tax on Applicable Large Employers if Full-Time (FT) EEs **receive** subsidized Exchange coverage.
 - *Includes Non-Profit, Governmental & Church Employers*



Applicable Large Employer

Defined as an average of *50 or more Full Time Equivalent* EEs on business days in the prior calendar year.

- Part Time Employees must be taken into consideration
- Formulas Provided
- Seasonal and Variable Hour Employee Issues

FT = Average at least **30 hour per week**, or 130 hours of service per month



Applicable Large Employer

Controlled Groups:

- There is no separate line of business exception
- Related employers are combined for purposes of counting employees for ALE determination
- Complicated process to determine
- If the 50 FTE threshold is met by the group, each member is an ALE
- Related employers NOT combined for purposes of penalty assessment



What Triggers a Penalty?

1. Failure to offer an employer sponsored plan to substantially all full-time EEs and dependents
(or)
2. Coverage is offered, but it is Unaffordable or does not provide Minimum Value

Note that Small Employers (less than 50 FTE) are NOT subject to any penalty for failure to offer coverage, or for offering Unaffordable and/or Non-MV coverage



Definitions

- Offer = At least one time per year
- Employer Sponsored Plan = Insured or Self-Insured plan that provides medical care. Includes GFP and Non-GFP plans
- Substantially All = 95% of FT EEs, or if greater 5 FT EEs
- Full-Time Employees = average 30 hours/week or 130 hours/month
- Dependents = Children up to age 26, including step and foster children. Spouses do not need to be included (spousal exclusions remain okay)



Penalty #1: Amount & Formula

1. Failure to offer an employer sponsored plan to substantially all full-time EEs and dependents
 - **Penalty #1 = \$2,000 x all FT EE – 30**

Example #1:

- *ABC Company employs 250 FTE EEs and does not offer an employer sponsored plan to anyone.*
- *1 FT EE enrolls in subsidized coverage in the exchange for a year.*
- *$(250 \text{ EEs} - 30) * \$2,000 = \$440,000$ Annual Penalty*

Penalty #1: Amount & Formula

Example #2:

- *ABC Company employs 250 FT EEs and does not offer an employer sponsored plan to 15 FT employees that they misclassified as PT*
 - *1 of these misclassified FT EE enrolls in subsidized coverage in the exchange for a year.*
 - *$(250 \text{ EEs} - 30) * \$2,000 = \$440,000 \text{ Annual Penalty}$*
- * WARNING: In this example you paid for your medical plan and paid the penalty tax*

What Triggers a Penalty?

2. Coverage is offered, but it is Unaffordable or does not provide Minimum Value



What Triggers a Penalty?

Unaffordable:

- Cost for *self-only coverage* in the *lowest MV* plan does not exceed 9.5% of household income for subsidy eligible employees
 - 100% - 400% FPL
- Since ERs don't know household income, safe harbors apply
- Wellness incentives and affordability



What Triggers a Penalty?

Minimum Value: Plans share of the total allowed costs of benefits provided under the plan must be 60% or greater.

Approaches to determine MV:

- MV Calculator
- Checklist of design-based safe harbors
- Actuarial Certification

ER HRA and HSA contributions may be used when determining MV.

- *Cannot use any carry forward amounts*



Penalty #2: Amount & Formula

2. Coverage is offered, but it is Unaffordable or does not provide Minimum Value
- **Penalty #2 = \$3,000 x FT EE enrolled in Exchange Subsidized coverage**

Example #3:

- *ABC Company employs 250 FTE EEs and offers an employer sponsored plan to all FT EEs and dependents. The plan meets MV. However the plan is unaffordable for 25 of their lowest paid employees.*
- *15 of these FT EEs enroll in subsidized coverage in the exchange for a year.*
- *15 * \$3,000 = \$45,000 Annual Penalty*

INDIVIDUAL MANDATE & EXCHANGES



Individual Mandate

- Virtually all individuals must have minimum health coverage or pay a penalty tax
- Amount = Greater of % of income OR \$ amount
 - 2014: 1% OR \$95 x uncovered individuals in family (*not to exceed 300% of \$95*)
 - 2015: 2% OR \$325 per individual
 - 2016: 2.5% OR \$695 per individual
 - Capped at national average bronze-level premium for family size
- Intended to encourage everyone to have coverage and balance adverse selection

Exchange Overview

- In 2014, state-based and federal Exchanges begin operation
 - OE slated for 10/2013 for 1/2014 coverage date
- Marketplaces for individuals and small business to purchase health plans
- Subsidies provided in the Exchange for lower-income individuals to purchase plans
 - Premium reduction credits or cost-share reductions
- Exchanges will make eligibility determination
 - Last week administration scaled back on requirement that exchanges verify income and health insurance status until 2015. 2014, will rely on consumers' self-reported information.



Exchange Overview

Functions of Exchange:

- Consumer Assistance - via call center and website. “Navigators” will help consumers use exchanges
- Plan Selection – Consumers able to choose plans sold on exchange and see data for each plan
- Eligibility – Applicant information collected and verified to determine eligibility for enrollment, tax credits and subsidies.
- Enrollment – Consumers enroll. Information sent to health plans as well as transmit info related to tax credits and cost sharing reductions as required by HHS
- Financial Management – Handling user fees, risk adjustment, reinsurance and risk corridor programs

Exchange Overview

- Three Exchange Models:
 - State Run, State-Federal Partnership, Federally Run
- Coverage offered:
 - 60% Bronze, 70% Silver, 80% Gold & 90% Platinum
 - All plans must cover 10 categories of *Essential Health Benefits*
 - Deductible and Out of Pocket maximum limits apply
- Premiums not based on health status. Based on family tier, age, geography & tobacco use
- Policies Guaranteed Issue and have no Pre-Existing condition limitations

Rules for Subsidized Coverage

Individual NOT eligible for subsidy if:

- Not a US citizen or legal resident
- Household income exceeds 400% FPL
- Offered enrollment in an ESP providing MV and that is “affordable” for the employee
- Actually enrolled in an ESP, regardless of MV or affordability
- Eligible for other specified coverage including Medicaid, Medicare Part A, CHIP, TRICARE, etc



2013 Federal Poverty Levels — 48 Contiguous States and DC

Household Size	100%	133%	150%	200%	300%	400%
1	\$11,490	\$15,282	\$17,235	\$22,980	\$34,470	\$45,960
2	15,510	20,628	23,265	31,020	46,530	62,040
3	19,530	25,975	29,295	39,060	58,590	78,120
4	23,550	31,322	35,325	47,100	70,650	94,200
5	27,570	36,668	41,355	55,140	82,710	110,280
6	31,590	42,015	47,385	63,180	94,770	126,360
7	35,610	47,361	53,415	71,220	106,830	142,440
8	39,630	52,708	59,445	79,260	118,890	158,520
For each additional person, add	\$4,020	\$5,347	\$6,030	\$8,040	\$12,060	\$16,080

Note: The 100% column shows the federal poverty level for each family size, and the percentage columns that follow represent income levels that are commonly used as guidelines for health programs.



Subsidy Amounts

Based on FPL, individuals contribute a specified % of income for coverage:

100% - 133% FPL* = 2% of income	133% - 150% FPL = 3 - 4% of income	150% - 200% FPL = 4 – 6.3% of income
200% - 250% FPL = 6.3 – 8.05% of income	250% - 300% FPL = 8.05 – 9.5% of income	300% - 400% FPL = 9.5% of income

Tax credit covers the remainder of the premium.

Cost sharing reductions also available to some (better plan)

* *Many states refusing Medicaid expansion*



Questions



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Upcoming Webinars

- **August** : Wednesday, August 14th, Noon – 1:00pm Building Candidate Engagement Through Employment Branding –*Presented by: Anne Nimke*
- **September** : Wednesday, September 4th, Noon – 1:00pm The Strategic HR Coach –*Presented by: Katie Weiser*
- **TO REGISTER**, visit www.CareerSpa.net or www.TalentConnections.net

