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2014: ACA's Implementation Update

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Agenda

- Overview
- Individual Mandate
- Exchange Marketplace
- Small Group Coverage
- Employer Paid Benefits
- Large Group
- Reporting and Taxes
- On the Horizon
- Q&A

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Current State of Enrollments

- 20 million covered due to PPACA
  - 8 million enrolled in the Individual Exchange – whether state or federal
  - 12 million covered as a result of other provisions of law
    - Medicaid expansion
    - Dependent eligibility to age 26
    - No medical underwriting allowed previously ineligible due to health or age to have coverage

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Happening Now

- 23 delays to the law
- 50 regulations in process right now
- Changes to HRA/EPP/FSA
- Delays to employer mandate
- But…
  - Uninsured rate at lowest point since 2008

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Suits and Countersuits

- Halbig vs. Sebelius – Federal Exchanges are not allowed to provide subsidy
  - Two opposing court views
  - 14 states have State Exchanges – all others Federal Exchanges
  - Potentially blocking millions from subsidies
    - 5.4 million in Federal Exchanges
    - 85% receive subsidy
    - Would increase premium by 76%
  - Possible long-term impact but no immediate market change
  - Probably headed to Supreme Court

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Suits and Countersuits

- Hobby Lobby/Conestoga Woodworks – allows closely held company to object to Federal mandates and win in court
  - 80% of American companies are closed held
  - House/Senate working on bill to overrule SCOTUS ruling

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10 Provisions in effect this year

- Establishment of state and federal exchange
- Pre-existing condition exclusion eliminated
- Creation of health insurance tax credits and subsidy
- Out-of-pocket expense limited
- Annual/lifetime limits eliminated
- 90 maximum waiting period
- Requirement to have insurance in place
- Wellness program incentive increase
- Coverage for those in clinical trials
- Expanded Medicaid coverage

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Individual Shared Responsibility — Individual Mandate

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Individual Shared Responsibilty

- Effective 01/01/2014 most Americans must have Minimum Essential Coverage to be exempt from IM penalty
- Minimum Essential Coverage is:
  - Coverage under certain government-sponsored plans including the exchange marketplace
  - Employer-sponsored coverage
  - Plans in the individual market
  - Grandfathered health plans
  - Other health plans (i.e. state risk pools) recognized by HHS

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MEC vs. Essential Benefits

- Essential Health Benefits are required for fully insured individual/small group starting in 2014
  - 10 benefits which have no annual or lifetime dollar limit
- Minimum essential coverage does not have to include essential benefits to be MEC
- Most insured plans and denominational plans currently offer MEC and their enrollees have MEC for purpose of individual mandate

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Individual Mandate Penalty

2014: Greater of $95 or 1% of household income over the filing threshold

- Less than $10,150 – no penalty
- $10,150 - $19,650 - $95
- Greater than $19,650 1% of household income
  - Max fine - $2,448/$12,240

2015: Greater of $325 per uninsured person or 2% of household income

2016: Great of $695 per uninsured person or 2.5% of household income

2017: Going forward, the penalties will be increased by the cost-of-living adjustment

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Individual Mandate Exemptions

Exemptions from Individual Mandate Penalty

- Religious conscientious objector — such as a Christian Scientist
- Enrolled in a health care sharing ministry — such as Medi-Share Christian Ministries or Samaritan's Trust
- Undocumented immigrant
- Native American Indians
- Individuals who are incarcerated
- Did not have health insurance for a period of less than three months in 2014
- Unusual financial or domestic circumstances

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Penalty for Non-coverage

- The penalty payment is collected when a person files their tax return
- If not included with tax return then it will be taken from your tax refund
- For those refusing to pay the penalty and who do not have a refund, the IRS cannot bill, garnish wages or enforce the penalty in any other way…at this time!
- The penalty attaches to your tax record and remains a tax liability
- Still no guidance on where on the 1040 this is reported

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How to Purchase Coverage

- Many people seeking individual coverage will purchase through the new exchanges
- Individual coverage will still exist through insurance carriers but very limited and only available during Marketplace Open Enrollment periods
- Small group employer-sponsored coverage will be purchased through insurance carriers, church plans or government SHOP exchange
- Large group employer-sponsored coverage will purchased through insurance carriers and church plans
- Christian Sharing Ministry gaining traction and popularity

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Health Care Exchanges/Marketplaces

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Exchanges/Marketplaces

- Exchanges introduced as an alternative for people with:
  - No other coverage availability
  - Lower income
  - Pre-existing medical conditions
- Open enrollment period:
  - November 2014– March 2015
  - Annual time to enroll for coverage
  - Can't wait until you are sick or injured to join
- 2014 – "If you like your plan you can keep your plan"
  - These plans end in 2015

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Exchanges/Marketplaces

What do the Exchanges look like?

- Fully insured, state-regulated insurance companies
- Participating carriers (varies by state)
- No church plans or unions are allowed in the Exchanges or eligible for a subsidy

What networks and benefits are available?

- Primarily narrow provider networks
- High-tech, sub-specialty providers may not be available through the exchanges
- Variety of benefit options

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Exchanges/Marketplaces

Would the exchanges save me money?

- Premium tax credit (subsidy)
  - Tax credit offered to Americans who earn less than 400% of poverty level
  - Clergy housing allowance is not included in household income calculation
- Cost-sharing reductions (subsidy)
  - Lower deductible and higher co-insurance level for persons earning less than 300% of poverty level
  - Claims paid at the "higher" level regardless of chosen plan

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Eligibility for Premium Tax Credit

FPL* 2014 (estimated)	Individual	Family of four
100%	$11,850	$24,450
400%	$47,400	$97,800

*Federal Poverty Level (FPL)

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Who does not qualify for the Premium Tax Credit?

Individuals who are:

- Offered an affordable employer plan that is of minimum value
  - Affordable — Employee's contribution can't exceed 9.56% of W-2 wages or 8% of household income
  - Minimum value — The plan covers at least 60%
  - Dependents can't seek subsidy **if they are offered coverage** regardless of affordability
- *Enrolled* in an employer plan (even if not affordable)

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Who does not qualify for the Premium Tax Credit?

Individuals who:

- Are covered by Medicare or Medicaid
- Are covered by another government coverage
  - Tricare
  - CHIP
- Have income above 400% of poverty level

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Small Group Coverage

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Small Group

- 96% of all organizations are less than 50 FTE
- Small group has **no mandate** to offer coverage
- Small group defined as:
  - <50 in 2014 and 2015
  - <100 in 2016

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Small Group

How does the ACA change the health plans small employers are offering to employees?

- Required Essential Benefits
- Cost Sharing Limitations
- New Rating Requirements

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Essential Benefits – No annual or lifetime dollar limit

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance use disorder services
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness services and chronic disease management
- Pediatric services, including dental and vision care

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Cost Sharing Limits

- Maximum out-of-pocket limit for eligible in-network benefits
  - $6,350 — Individual (Increase to $6,450 in 2015)
  - $12,700 — Family (Increase to $12,900 in 2015)
- Minimum actuarial plan value
- Deductible limits - $2,000/$4,000
  - Deductible limits **eliminated** in Section 213 of the *Preventing Access to Medicare Act* signed by the President April 1, 2014

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Minimum Actuarial Plan Value

- A plan must provide 60% or greater coverage to be considered *minimum value*
- Creation of standard metallic benefit plans
  - Bronze — 60%
  - Silver — 70%
  - Gold — 80%
  - Platinum — 90%
- End of catastrophic plans

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Rating Requirements

- Before PPACA – Rates based on
  - Group size
  - Industry
  - Gender
  - Health Status
  - 1:5/9 slope from youngest to oldest
  - No guarantee issue

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Rating Requirements

- After PPACA – Rates based on
  - Age
  - Three digit zip code
  - Family size
  - Modified community rating exclusively
  - 1:3 slope from youngest to oldest
  - Guarantee Issue
  - Smoking habits — 150% upcharge

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Small Group

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Small Business Health Options Program (SHOP)

- 2014 – groups up to 50 employees
  - One product option will be offered
  - Online enrollment not available until November 2014
  - Must purchase through brokers, insurance companies
- **Small employer tax credit** only available through SHOP Exchange
- **No subsidy for employees enrolled in employer-sponsored SHOP coverage**
- 2016 – SHOP open to groups up to 100 employees

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Tax Modifications

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Pre-Tax Premium Contributions

- IRS Notice 2013-54
  - Group Health Plans include
    - Plans where an "employer reimburses an employee for some or all of the premium expenses incurred for an individual health insurance policy or arrangements under which the employer uses its funds to directly pay the premium for an individual health insurance policy covering the employee".

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Pre-Tax Premium Contributions

- IRS Notice 2013-54
  - Two market reforms apply to all group health plans
    - No lifetime limits on the dollar value of benefits for any participant or beneficiary
    - Preventive coverage at no cost
- EPP and stand-alone HRA's will fail to comply and are not allowed because:
  - EPP/HRA impose annual limit up to cost of the individual market coverage
  - EPP/HRA cannot be integrated with any individual health insurance policy

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Pre-Tax Premium Contributions

- What if the employer terminates employer-sponsored benefits and sends employees to Exchange? Can they pay for Exchange coverage with tax-free contribution?
  - No!
- Significant penalty if employer provides tax-favored reimbursement for individual policies
  - $100 a day per employee excise tax penalty
  - $36K a year per employee
  - Excise taxes must be paid with pre-tax dollars and are not a deductible business expense

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Pre-Tax Premium Contributions

- Are there any exceptions???
- Is there a way for churches to continue paying for employee's health insurance through private insurers or state exchanges as a nontaxable fringe benefit?
  - Perhaps…
  - Market reforms do not seem to apply to a group health plan that has fewer than two participants who are current employees on the first day of the plan year.
- Consider the fines and seek sound guidance.

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Section 125 Cafeteria Plans

PPACA added code 125(f)(3)

- Prohibits employee who purchases **Exchange** coverage from running the premium through the employer's 125 plan as a pre-tax benefit (would be double-dipping).
- The employee covered under traditional **individual** or **group** plans purchased outside the **Exchange** may run the premium through the employer's 125 plan and enjoy pre-tax savings.

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Bottom Line...

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- An employer may not pay their employee's **individual** policy premium on a tax-favored basis.
- **Group** policy may be paid on a tax-favored basis through the HRA or the Premium Payment Plan.
  - Group policy does not have to be sponsored by the employer – i.e., an employee covered under a spouse's **group** health plan can have the premium paid tax-free by their employer through an HRA or PPP.
- Employees can take advantage of 125 pre-tax premium savings only if their individual policy is non-exchange coverage.

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Additional Reporting and Taxes 2014-2015

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2015 Impact: Reporting for Individual Mandate

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IRC Section 6055 – Government plans and insurance carriers

- Aggregate report to IRS and individual statement to policyholder
- Report substantiates individual has MEC for purpose of the Individual Mandate
- TIN required for all covered lives including dependents
- Insurance carrier will be asking for covered employee and dependent TIN to complete report
- This is individual's substantiation of coverage to prevent penalty

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2015 Impact: Reporting for Pay-or-Play Penalty

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IRC Section 6056 – Applicable Large Employer – 50+ FTEE

- File annual information to IRS to substantiate coverage offered provided MEC, was affordable/adequate and offered to all FTEE working greater than 30 hours in prior year
- First report due to IRS 2/28/16 for 2015 plan year
- First report due to all covered FTEE January 31, 2016
  - Report sent to covered FTEE along with their W-2
- Penalties for non-compliance in filing
- Explicit detail about offering required
- **Groups with less than 50 employees exempt from 6056 reporting**

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Additional Taxes

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Patient Centered Outcomes Research Institute (PCORI)	
Purpose	To fund research to compare medical treatments and interventions to determine treatments most effective
What is it?	Non-profit institute established by PPACA
Who is affected?	Fully insured and self-insured
How much is the fee?	Annual fee assessed 2012–2018 2013: $1.00 per covered person, per month 2014: $2.00 per covered person, per month 2015 and beyond: Fee based on increases in the projected, per capita amount of the national health expenditures

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Additional Taxes

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Reinsurance Assessment Fee (Transitional Reinsurance Fee - TRF)	
Purpose	To fund three-year reinsurance program to reimburse insurers of high-cost patients in the Exchanges
What is it?	Annual fee assessed 2014–2016
Who is affected?	Fully insured and self-insured
How much is the fee?	2014: $5.25 per covered person, per month ($63 per year) subject to change thereafter 2015: Reduced to $44 annual – $3.67 a month

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W-2 Reporting

- Employers required to report value of health coverage on employees' W-2s
  - January 2013 on secular, large employer W-2s
- Temporary exemption remains for:
  - Employers in church plans exempt from COBRA
  - Small employers (fewer than 250 W-2s)
- IRS may end the exemption upon 6 months' notice
  - No earlier than 2014 (more likely for 2015 tax year)

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Large Group

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Employer Aggregation

"Controlled Group" rules of Code § 414(c) apply—"lumping together" closely affiliated employers

Churches
- Day care centers
- Schools and after-school programs
- Summer camps
- Other ministries

Religious Organizations
- Agencies, Boards, Foundations
- Summer camps
- *Possibly also:* schools, hospitals, retirement homes over which convention may have control for board appointments

2014 Impact: Large Employer

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Counting

- **Count employees**
  - Transitional relief:
    - Minimum 6 month "Measurement Period"
    - Followed by "Administrative Period" of not less than one day
    - Followed by "Stability Period" where coverage is offered.
- 2015 - 12 month counting
- Count NOW

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2014 Impact: Large Employer

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Large Employer Mandate Delayed until 2016 *for*

- Employers with 50 to 99 full-time equivalent employees (FTEE)
  - IF they meet transitional relief rules

Transitional Relief Rules for 50-99 Size Groups

- No reduction in size of work force or overall hours of services to qualify for the transition relief
- Employer does not eliminate or materially reduce any health coverage offered on February 9th, 2014
- Employer certifies that it satisfies these requirements (on Section 6056 report)

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2014 Impact: Large Employer

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Effective 2015

- Employers with 100+ FTEE are defined Applicable Large Employers
  - Applicable Large Employers must :
    - (a) **Offer** coverage to at least **70%** of employees working 30 hours or greater
      - » Moves back to 95% in 2016
    - (b) Coverage must be **affordable** and of **minimum value**

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2014 Impact: Large Employer

- **Affordable** – Contribution limits for *Employee Only* coverage
  - 9.56% is maximum contribution an employee can make to the "employee only" coverage
  - Determined by:
    - W-2 wages
    - Employee's hourly rate
    - Federal poverty level
- **Adequate** - Plan provides Minimum Value, meaning plan pays an actuarially equivalent 60% of required health care expenses

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2014 Impact: Large Employer

- **No Offering Penalty (a):** $2,000 penalty assessed for all FT employees if not offering coverage to all 30-hour workers and one receives a *subsidy*
  - In 2015 first 80 workers will not count toward penalty calculation
  - In 2016 first 30 workers do not count toward penalty calculation
- **Affordable/Adequacy Penalty (b):** $3,000 per employee who receives a *subsidy* because coverage is not affordable and not of minimum value

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Penalty for Not Reporting

- Fail to File with IRS:
  - $100 per FTE; maximum $1.5 million per calendar year
- Fail to Provide Statement to FTE:
  - Separate penalty $100 per FTE; maximum $1.5 million per calendar year

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On the Horizon

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Cadillac Tax - 2018

- $10,200 per year for individual
- $27,500 per year for family
- Cost of health plan above those amounts will be subject to 40% excise tax
- Cost of coverage includes employee contributions, FSA contributions
- Tax Goals:
  - Finance ACA
  - Decrease health care cost by discouraging use of generous insurance plans
- Very unpopular and legislation introduced to repeal
- Effect - eliminate high-cost benefit plans

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Website Bookmarks

- www.guidestone.org
- Health Care Reform Section
  - Employer Calculator
  - Reimbursement Vehicle section
  - Individual Mandate and Exchange sections
  - Updated PPACA Overview
  - Sign-up for email alerts as low continues to be modified

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The preceding information is general in nature and is intended to keep you apprised of certain important developments.

This information may be subject to interpretation or clarification over time, so we cannot guarantee its accuracy or how it might be determined to apply in certain situations.

However, we hope it will provide you a useful frame of reference as you endeavor to carry out your responsibilities and serve your employees.

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