



COMPASS

EMPLOYEE BENEFIT GUIDANCE
& COMPLIANCE SOLUTIONS



2016

NAVIGATING HEALTHCARE REFORM

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Index

- I. The Administration Publishes ACA Status 7/15/16**
- II. Individual Mandate**
- III. Insurance Exchange and “SHOP” for Individuals and Small Employers (Marketplace)**
- IV. Pay or Play**
- V. ERISA Plans (Employer Requirements)**
- VI. Top 10 Compliance Issues for 2017**



I. The Administration Publishes ACA Status 7/15/16



President Obama Publishes ACA Status

7/15/16

Goals

- Provide healthcare to those without coverage
- Bring cost down
- Improve healthcare quality



Provide Healthcare to Those Without Coverage

- **President announced that 17,000,000 more people now have coverage**
 - Medicaid Expansion
 - Exchanges (9.4 Million Avg. cost paid \$291 monthly; Actual cost \$386 monthly)



Bring Medical Care Delivery Cost Down

President announced that ACA has slowed cost growth and hasn't resulted in higher out-of-pocket cost for employer sponsored plans.

- Kaiser expects a 9% increase overall



Improve Healthcare Quality

ACA Provision Mandates

- No lifetime maximum benefits
- Dependent to age 26
- No annual caps
- Mental health parity
- Wellcare cost elimination



Administrations Health Spending Numbers

7/14/16

- National health spending increased by 5.5% to \$3.2 trillion.
\$10,000 per person
- Estimates of 5.7 to 6.0 percent through 2020
- 2025 = 20% of GDP
- Employer cost going up 4% annually
- (1993 prediction was 20% GDP by 2003)



Affordable Care Act's Section 1332 “Innovative Waivers”

- 2017- States can ask for waivers to exempt states from one or more ACA reforms.
 - Employer Mandate
 - Individual Mandate
 - Public Health Exchange
- State can tailor own reform
 - Must get federal approval
 - Must not reduce the number of insureds
 - Other restrictions
- If met, State would still receive government subsidies
 - Both CO and NY are considering proposals to receive waiver to create “Single Payer Health Initiatives”.



Democratic Platform

- Medicare eligibility at age 55
- Reducing prescription drug cost
- Capping consumers “Out of Pocket Cost”
- Creating a public option
- State incentives to expand Medicaid
- Limiting deduction for employers



Republican Platform

- Repeal ACA and give States authority
- Tax breaks for individuals to buy health insurance
- Greater price transparency
- Purchasing pools for small business and individuals
- Allow interstate sales of health insurance
- Make HAS accounts inheritable
- Allow overseas drug companies to sell here
- Make policies portable
- Block grants to state for Medicaid



II. Individual Mandate



Patient Protection and Affordable Care Act (PPACA) in 2016

- Requires all American citizens and legal residents to purchase qualified health insurance coverage. Exceptions are provided for:
 - Religious objectors
 - Individuals not lawfully present
 - Incarcerated individuals
 - Taxpayers with income under 100% of poverty, and those who have a hardship waiver
 - Members of Indian tribes
 - Those who were not covered for a period of less than three months during the year
 - Those not required to file a federal income tax return



Minimum Essential Coverage

Ambulatory patient services	Emergency services
Hospitalization	Maternity and newborn care
Mental health and substance use disorder services, including behavioral health treatment	Rehabilitative and habilitative services and devices
Prescription drugs	Laboratory services
Preventive and Wellness and Chronic Disease Management	Pediatric services, including oral and vision care



Minimum Essential Coverage

Coverage includes:

- Government sponsored programs
- Employer sponsored programs
- Individual market plans
- Other coverage as designated by HHS and/or Treasury



Minimal Essential Coverage Penalty

- **Provisions**
 - Monthly penalty (phased in 2014 to 2016)
 - For 2016 it is equal to $1/12^{\text{th}}$ of the greater of:
 - \$695 or (half price for children)
 - 2.5% of HH income



Minimal Essential Coverage Penalty

- Family limit:
 - For families, can't exceed 3 times flat dollar amount (cap)
 - \$2,085 in 2016
 - This is not an insurance premium substitute-
excise tax



Calculation Example

- Year: 2016
- Uninsured: Family of 3 (2 parents 1 child <18)
- Greater of:
 - \$1,737.50 (\$695 + \$695 + \$347.50) or
 - 2.5% of household income (\$100k) \$2,500
- \$2,500 or \$208.33 per month



Enforcement

- Calculated on Form 1040
- Enforced by Department of Treasury



III. Insurance Exchange and “SHOP” for Individuals and Small Employers (Marketplace)



Requires Each State to:

- Create an exchange, partner with the federal government to create an exchange or let the Federal Government create the exchange.
- To Date:
 - 14 States have created their own exchange
 - 3 States are Federally Supported
 - 7 States are partnership marketplaces
 - 27 States are leaving it to the Federal Government
 - 32 States expanded Medicare thus far (DC)



Exchanges and SHOP

- **Exchanges** will be for individual and families to purchase healthcare.
- Groups with **50 or less** employees can purchase coverage (**SHOP**).
 - Each state can decide to expand SHOP to 100 employees and in 2016 the definition of small employer becomes 100 employees.
 - “PACE Act” October 2015. Allows state to maintain definition of “Small Employer” (50 or less)



What the Marketplace offers

- Plans based on actuarial values:
 - Bronze: 60%
 - Silver: 70%
 - Gold: 80%
 - Platinum: 90%
 - For individuals under 30 Catastrophic Coverage
- Other types of plans:
 - Stand-alone Dental plans
 - Co-op Health Plans
 - Multi-state Plans



PPACA in 2016

- Creates sliding-scale tax credits for non-Medicaid eligible individuals with incomes up to 400% of Federal Poverty Level (FPL) to buy coverage through the exchange.
 - The reconciliation provides slight increases to the subsidy amounts for all subsidy-eligible individuals and increases the cost-sharing subsidies for those making 250% FPL or less.
 - However, beginning in 2019, a failsafe mechanism will be applied that reduces overall premiums subsidies if the aggregate amounts exceed .504% of GDP.



Income Level Premium as a Percent of Income 2017

Min Incom (% of FPL)	Max Incom (% of FPL)	Min Premium Cap (% of Income)	Max Premium Cap (% of Income)
0%	133%	0%	2.04%
133%	150%	3.06%	4.08%
150%	200%	4.08%	6.43%
200%	250%	6.43%	8.2%
250%	300%	8.21%	9.65%
300%	400%	9.7%	



Income Range in Dollars for the 2017 Benefit Year Premium Subsidies:

	Single	Family of Four
Under 100%	Less Than \$11,800	Less Than \$24,300
133%	\$15,800	\$32,319
150%	\$17,820	\$36,450
200%	\$23,760	\$48,600
300%	\$35,640	\$72,900
400%	\$47,520	\$97,200



Maximum “Out-of-Pocket” Exposure for Those Eligible for Cost Sharing Subsidies (100% to 250% of FPL)

	2017
Under 100%	\$7,150 / \$14,300
100% - 150%	\$2,350 / \$4,700
150% - 200%	\$2,350 / \$4,700
200% - 250%	\$5,700 / \$11,400
Over 250%	\$7,150 / \$14,300

Must be covered under a Silver Plan



Individual Marketplace

- **The Marketplace:**

- Collects and verifies eligibility
- Determines their eligibility for QHP
- Facilitates enrollment

- **NO WRONG DOOR:**

- Medicaid
- CHIP
- Cost Sharing

- **Information Sources:**

- Social Security Administration
- IRS
- Department of Homeland Security



Example – Steve, a 45-Year-Old Single Adult

Steve is a 45 year old and has an annual income that is 300% of the FPL (\$35,640 in 2014).

Lets assume the cost of the second lowest cost silver plan in Steve's state individual health insurance exchange is \$4,000 per year (or \$333.33 per month).

Since Steve is purchasing coverage in the individual health insurance exchange, Steve would not be required to pay more than 8.21% of income, or \$2,926.04 per year (that's \$243.84 per month), to enroll in the second lowest cost silver plan.

The tax subsidy available to Steve would be \$83.43 per month (\$333.33 monthly premium minus \$243.84 cap on what Steve is required to pay)



Small Business Health Options Program (SHOP)

To qualify for SHOP coverage:

- Be located in a SHOP's service area (generally a state)
- Offer coverage to all full-time employees (those working an average of 30 or more hours per week)
- Have at least one eligible employee on payroll
- Have 50 or fewer full-time equivalent (FTE) employees on payroll in 2014
 - Includes part-time employees, but not seasonal employees (those working fewer than 120 days per year)



The Pace Act

The Protecting Affordable Coverage for Employees Act repeals the mandated small-group expansion from groups of up to 50 employees to groups of up to 100 employees that would take effect on 1/1/2016.

- Expected to affect 159,000 employers of 51 to 100 employees nationally



Small Group Expansion (Cont.)

Percent of Private Sector Enrollees in Self-Insured Health Plans That Offer Health Plans		
Number of companies offering Healthcare	Firm Size	Percent of Enrollees
1,592,000	1 thru 10	13.1%
	11 thru 24	9.7%
	25 thru 49	11.9%
159,000	50 thru 199	14.3%
NA	100 thru 999	33.6%
NA	1000 plus	85.6%

Based on 2013; Employee Only no dependents



Small Group Expansion (Cont.)

Adverse Effects

- Higher premiums for 51 to 99 employees because of inclusions in pool.
 - Age
 - Geographic Area
 - Family Size (3 child max)
 - Tobacco (150%)
- Potential higher rates for groups under 50 employees.
- “Self Insured” plans are not included



Small Group Expansion (Cont.)

Adverse Effects (Cont.)

- The elimination of Composite Rates
- Loss of design flexibility

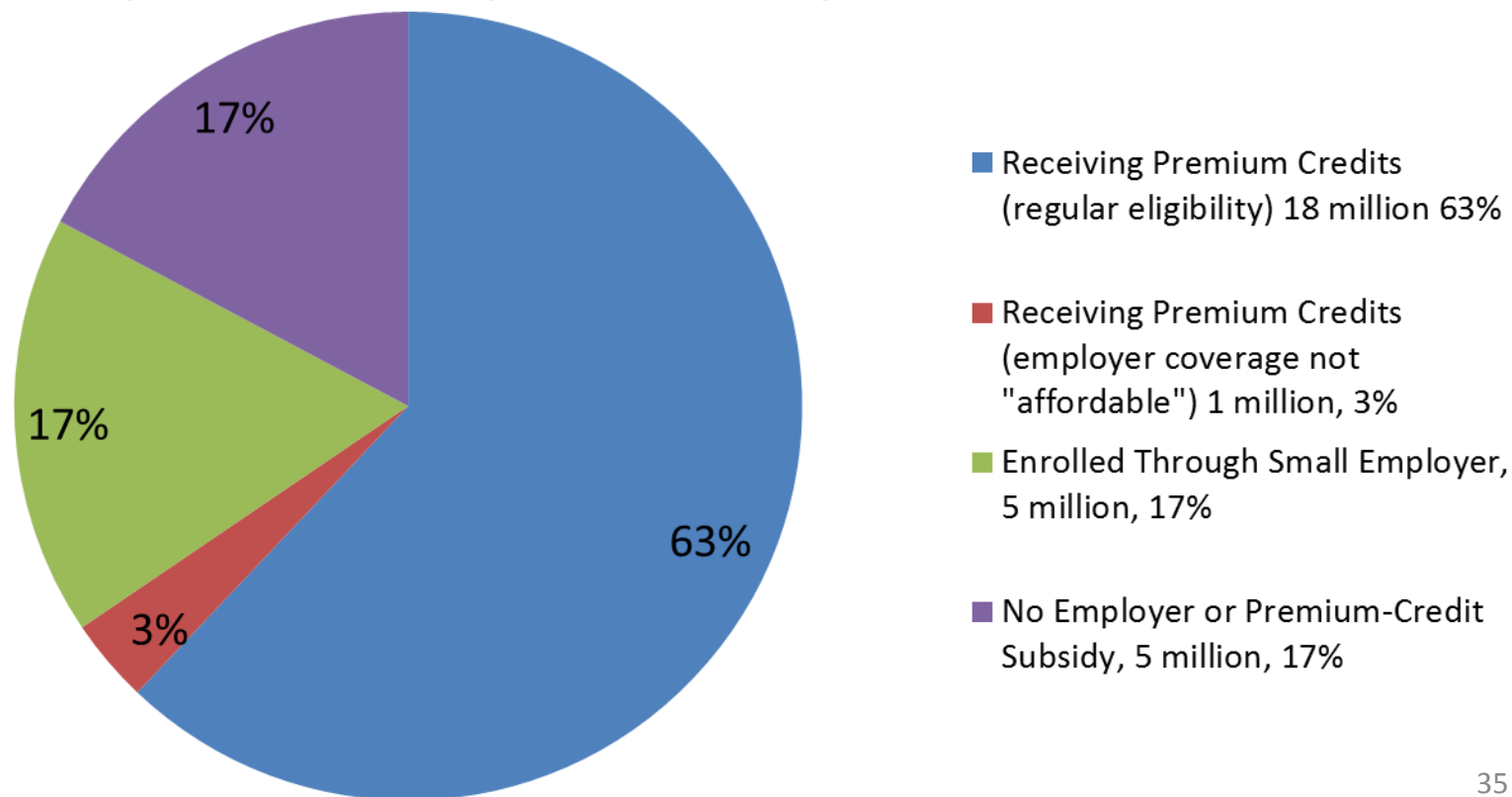
Solution

- Self Insurance
 - ERISA exempts self-insured plans from state health insurance regulations, including issue and ratings rules and benefit requirements (A. Risk underwriting B. Participation C. Pediatric Dental)



How Many People Will be Affected?

Figure I. CBO: Projected Exchange Enrollment, 2019





Participation in the Exchange & Expansions of Medicaid 2015

As Reported by Health and Human Services (HHS)

- Enrolled in Exchanges = 9,900,000
- Enrolled into Medicaid or CHIP = 11,700,000



IV. Pay or Play



How is a “Large Employer” determined under PPACA

1. An employer of an “employee” as determined under common-law test §4980H
2. What types of entities:
 - Private Employers
 - Public Employers
 - Churches
 - Non-Profit Employers



How is a “Large Employer” determined under PPACA (continued)

An applicable Large Employer:

1. Has an average of at least 50 full time and/or “full time equivalent” employees on business days during the preceding calendar year §4980(c)(2)
 - 12 (Full time + FTE per month from prior year) can exclude “seasonal”
2. “Controlled Group”
3. New Company Expectations



Definitions

Full Time – 30 hours weekly or 130 hours monthly

Hours of Service – includes paid; vacation, leave, holiday, illness, incapacity layoff, jury duty, military duty or leave of absence.

Hourly Employees – Count actual hours

Non Hourly Employees –

- 1.) Count Hours
- 2.) Days Worked (1 hour of service per day = 8 hours)
- 3.) Weeks Worked (1 hour of service = 40 hours)



Definitions (continued)

Seasonal – Works no more than 120 days per year.



Determining the employers number of FTE's

To determine the employer's number of FTE's for each calendar month in the preceding calendar year the employer must:

1. Calculate the aggregate number of hours of service (but not more than 120 hours for each employee) for all employees who were not full-time;
2. Divide the total hours of service from step 1 by 120. The result is the number of FTE's for the calendar month;
3. For each month add the number of full-time and FTE employees;
4. Add the numbers for each month to reach a yearly total; and
5. Divide the yearly total by 12, and then disregard any fractions. The result is the number of full-time and FTE employees. If the result is 50 or more, the employer is subject to Play or Pay rule.



FTE Example

Example – ABC Co. has 35 full-time employees (30+ hours). In addition, they have 20 part-time employees who all work 24 hours/week (96 hours/month).

- Part-time employee hours would be equivalent to 16 full-time employees based on the following calculation:

$$20 \text{ employees} \times 96 \text{ hours} / 120 = 16$$

- $35 + 16 = 51$ full time equivalents



Safe Harbors for Full Time Status

Seasonal, part time and variable hour employees where its difficult to tell if they are full-time under the Affordable Care Act (ACA).

1. **Measurement period** – 3 to 12 month period to (must be same for same class) calculate 30 hour average.
2. **Stability Period** – If determined to be full time the employer will offer coverage regardless of hours worked during this period. The stability period must be at least 6 months long.
3. **Administrative Period** – Not longer than 90 days where an employer can add time after the measurement period to add an employee to the healthcare plan before the stability period begins.

(For new employees the 3 periods cannot exceed 13 months)



“Controlled Group”

- **Why look at now? Look back to prior year (2015) for number of employees.**
- **Controlled group rules of IRC Sec 1563(a)** apply in determining number of employees:
 - Parent-subsiary (80% stock ownership)
 - Brother-Sister (2 or more corps if 5 or fewer individuals, estates, trusts own stock >50% total voting power or value and 80% of outstanding stock)
 - 3 Entities
 - Family attribution rules
 - Related Service



“Controlled Group”

- **If attribution rules apply for purposes of determining a large employer, only one reduction (of 30 employees) will be allowed for purposes of determining the excise tax.**
- **Each enterprise stands on its own for tax liabilities. However, 30 employee credits are proportionately shared amongst all companies.**

Determining Number of Full-Time Employees

- **Full-time** employees work an average of 30 hours per week or 130 hours per calendar month, including vacation and paid leaves of absence.
- **Part-time** employees' hours are used to determine the number of full-time equivalent employees for purposes of determining whether the employer mandate applies.

Companies with part-time and seasonal employees may find the following information helpful when determining full-time and full-time equivalents.

- Only employees working in the United States are counted
- Volunteer for government and tax exempt entities are not considered FT EE's
- Teachers and other education employees are considered FT
- Seasonal employees (six months or less) are not FT EE's
- Hours worked by students in federal or state sponsored work-study programs are not counted



Employer Mandate Facts

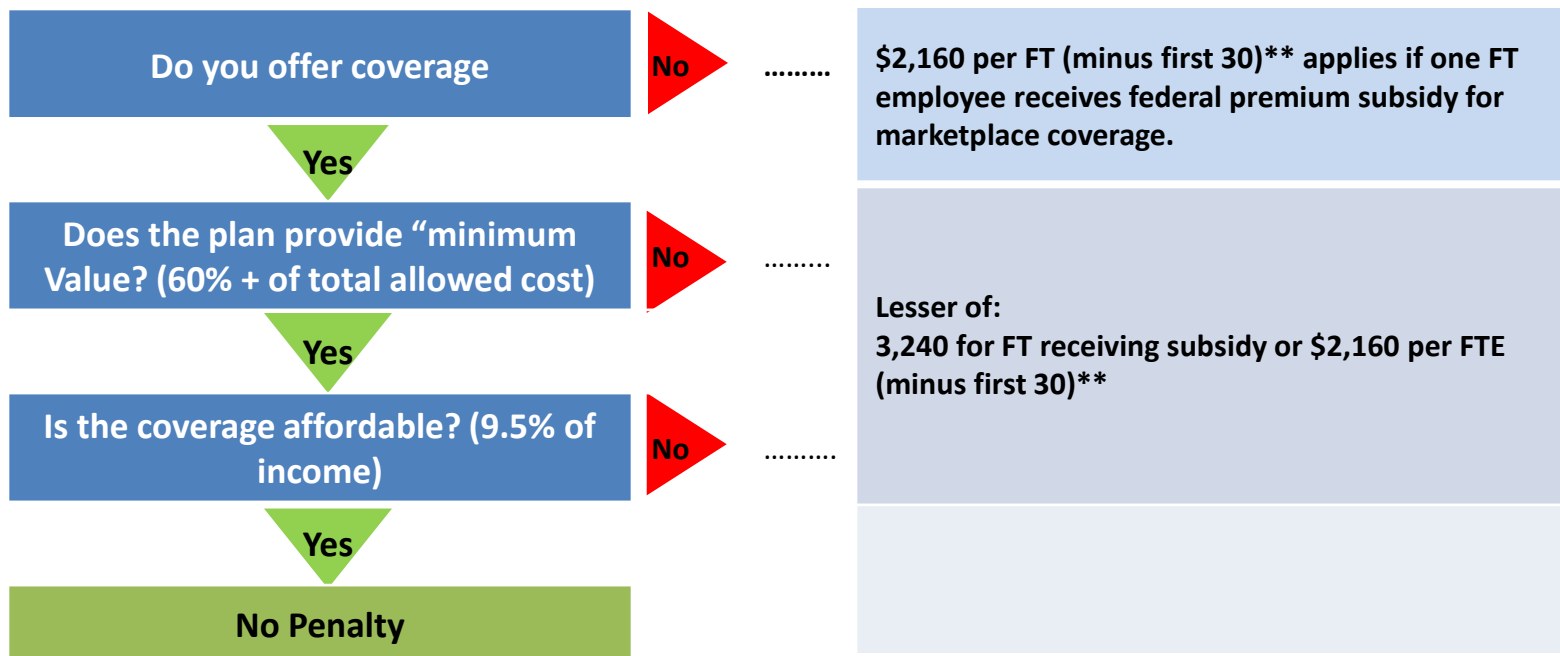
The employer mandate applies to employers with 50 or more full-time employees, or full-time equivalents and will be phased in during 2015 and 2016 based on employer size.

Employer Size	2016 Plan Year and Beyond
1 - 49 Full-Time Employees	Does not apply
50 - 99 Full-Time Employees	29% Employer must offer coverage to 95% of full-time employees and dependents to age 26
100 + Full-Time Employees	29% Employer must offer coverage to 95% of full-time employees and dependents to age 26



Employer Mandate Facts (cont.)

The employer mandate and employer penalties



Examples of Employer Penalties (Example 1)

The employer does not offer coverage to full-time employees

The penalty is \$2,000 per employee, excluding the first 30 employees.* The example below shows how the penalty would be calculated.

Employer	Trigger	Penalty
500 full-time employees No coverage offered	1 employee purchases coverage on the marketplace and is eligible for a federal premium subsidy	\$2,000 per employee, minus the first 30 employees* 500 - 30 = 470 employees 470 x \$2,000 = \$940,000

* For plan years beginning in 2015, the penalty is \$2,000 for each FT employee minus the first 80 employees. For plan years beginning in 2016 and beyond, employers can exclude 30 EE's for the penalty calculation.



Examples of Employer Penalties (Example 2)

The employer offers coverage that does not meet the minimum value and affordability requirements

The penalty is the lesser of the two results, as shown in the example below.

Employer	Trigger	Penalty
1,200 full-time employees Employer offers coverage, but coverage is not affordable and/or doesn't provide minimum value	1 employee purchases coverage on the marketplace and receives a federal premium subsidy <i>(Example) 250 employees purchase coverage on the marketplace and are eligible for a subsidy</i>	Lesser of \$2,000 per employee, minus the first 30 employees* OR \$3,000 per employee receiving a federal premium subsidy. 1,170 x \$2,000 = \$2,340,000 penalty 250 * \$3,000 = \$750,000 penalty (Lesser penalty applies)

* For plan years beginning in 2015, the penalty is \$2,000 for each FT employee minus the first 80 employees. For plan years beginning in 2016 and beyond, employers can exclude 30 EE's for the penalty calculation.



Controlled Group

- If attribution rules apply for purposes of determining a large employer, only one reduction (of 30 employees) will be allowed for purposes of determining the excise tax.
- Each Enterprise stands on its own for tax liabilities. However, 30 employee credits are proportionately shared amongst all companies.



Safe Harbors

- Safe Harbors for large employers
 - Form W-2 safe harbor
 - Rate of pay safe harbor
 - Federal poverty line safe harbor



Large Employers

- The exchange must notify **an employer that they may be liable for a penalty** if one of its employees is determined to be eligible for a premium credit.
- An **appeals process for these employers will be set up** by the Secretary of Labor.
- Any assessable payment provided by the excise tax rules will have to be paid upon notice and demand by the IRS



Large Employer Reporting

- **Required under the Internal Revenue Code 6055 and 6056 about offers of health coverage**



Who Does the Reporting

	PCORI	Transitional Reinsurance Fee	1094 and 1095 (A)(B)(C)
Fully Insured	File Date July 31st forport on 720 thru 2019	Must report by November 15th thru 2016 to HHS + pay by Jan 15th	To employees by 1/31 to gov, 2/28 electronic filing 3/31
Small Employer	Carrier	Carrier	Carrier
Large Employer	Carrier	Carrier	Employer
HRA			
Small Employer	Employer	NA	NA
Large Employer	Employer	NA	NA
Self Insured + ASO			
Small Employer	Employer	Employer	Employer
Large Employer	Employer	Employer	Employer
Exchange, Medicaid, CHIP, Individual coverage outside Exchange	Carrier	Carrier	Carrier
Multiemployer benefit plan (UNION)	Designated in Plan Document, otherwise Employer	When self-administered, it is exempt	Ask your UNION

* Can be paid in installments

Comparative Effectiveness Research Fee (PCORI)

Funds the Patient-Centered Outcomes Research Institute, which conducts research to compare which of two or more treatments is most effective.

Comparative Effectiveness Research Fee	
Applies to	Insured and self-funded medical plans
Effective	<ul style="list-style-type: none"> • Through 2019 • Effective for plan years beginning on or after 10/2/11 • First payment due for many plans 7/31/13
Cost impact	<ul style="list-style-type: none"> • Annual fee of \$1 per participant, increasing to \$2, then indexed • <u>IS</u> tax deductible
Who pays	<ul style="list-style-type: none"> • Insured: Insurer pays; built into rates • ASO: Employer calculates and pays \$2 inflated (Actual Count, Snapshot or 5500 method)



Health Insurance Industry Fee

Helps fund PPACA implementation

Health Insurance Industry Fee	
Applies to	Insured medical, dental and vision plans
Effective	<ul style="list-style-type: none">• Begins 2014
Cost impact	<ul style="list-style-type: none">• 2% - 2.5% of premium in 2014• 3% - 4% of premium in future years• Tax deductible for employers as part of premium
Who pays	<ul style="list-style-type: none">• Insurer pays; built into rates; partial load in 2013



Reinsurance Assessment

Annual fee intended to lessen the impact of adverse selection in the individual market

Reinsurance Assessment	
Applies to	Insured and self-funded medical plans
Effective	<ul style="list-style-type: none">• 2014 - 2016
Cost impact	<ul style="list-style-type: none">• \$63 per member per year (PMPY) in 2014• \$44 PMPY in 2015• \$25 - \$30 PMPY in 2016• Is tax-deductible
Who pays	<ul style="list-style-type: none">• Insured: Insurer pays• ASO: Employer is responsible



Reporting For Employers 1094-1095

	Self Insured	Fully insured
Non ALE	1094-B 1095-B	Not Required to file
ALE	1094-C 1095-C	1094-C and 1095-C excluding Section III
	For non-employees: Either 1094-B and 1095-B or 1094-C and 1095-C	
ER Sponsored UNION Plans	Not Applicable	1094-B and 1095-B; (6055) 1095-C excluding Section III , 1094-B and/or 1095-B
Insurance Provider	Not Applicable	1094-B and 1095-B



Form W2 Reporting

Employers who distribute 250 or more* Form W-2s for any tax year need to include the value of applicable employer-sponsored coverage on each employee's W-2 Form.

- **This is not considered taxable income**
- **Information purposes only**

****IRS notice released October 12, 2010, made this reporting requirement for the 2011 tax-year voluntary. Employers that choose not to report aggregate cost of employer-sponsored coverage for the 2012 tax year and beyond will be subject to penalties.***



V. ERISA Plans (Employer Requirements)

The Employee Retirement Income Security Act of 1974 (ERISA) protects the retirement assets and Welfare Benefit Plans of American Workers by implementing rules that qualified plans must follow to ensure that plan fiduciaries do not misuse plan assets.



Who is exempt from ERISA?

- **Government entities**
- **Churches for EE**
- **Workers compensation**
- **Unemployment or Disability**

Requirements

- Reporting + Disclosure
- Employee benefit plans



Summary Plan Description (SPD) Request

Summary Plan Description (SPD) Request

SPD Reporting and Disclosure Requirements and Deadlines

Request for SPD: The plan administrator shall provide the requested SPD to participants and beneficiaries within 30 days after they submit a written request. ERISA § 502 (c); 29 USC § 1132 (c).

New participants: The plan administrator must provide the SPD no later than 90 days after an individual becomes a plan participant.

New plans: The plan administrator must provide the SPD to participants, and also file the SPD with the U.S. Department of Labor, no later than 120 days after a plan is established.

SPD Updates: The plan administrator must provide the updated SPD to participants, and filed with the U.S. Department of Labor, every five (5) years. If no material changes have been made to the SPD, then the plan administrator must provide the SPD to participants, and filed with the U.S. Department of Labor, every ten (10) years. **Special rules for material reduction of group health coverage:** Pursuant to HIPAA, the plan administrator must provide the SPD to participants and beneficiaries within 60 days after the adoption of any change/modification to the SPD.

Penalties for Noncompliance with SPD Reporting and Disclosure Requirements

A court can impose up to \$110.00 per day payable to a participant or beneficiary if the plan administrator fails or refuses to provide an SPD, SMM, or other information within 30 days of request.

Any person convicted of willfully violating the SPD, SMM, or request for information disclosure requirements will be fined up to \$5,000.00 (or \$110,000.00 for certain violations) or imprisoned for up to one year or both. In addition, any person knowingly making false statements or representations will be fined up to \$10,000.00 or imprisoned for five years or both.

It is illegal to use, or threaten to use, or to attempt to use fraud, force, or violence to restrain, coerce, or intimidate any participant or beneficiary for the purpose of interfering with or preventing the exercise of any ERISA right. Willful violators can be fined \$10,000.00 or imprisoned for one year, or both. ERISA § 511; 29 USC § 1141

Attn: Health Benefits Plan Administrator
[Redacted]

Summary Plan Description (SPD) REQUEST RESPONSE

RE: Patient Name: [Redacted] Group Number: [Redacted]
Insured Name: [Redacted] ID Number: [Redacted]
Date(s) of Service: 03/17/2014 Total Billed: \$5,336.00
Amount Denied: \$5,336.00

The SPD you requested is enclosed.

We are the Non-fiduciary Third Party Claims Administrator for the above captioned plan. The Plan Administrator/Named Fiduciary for such employee is:
Name: _____
Address: _____
Telephone No.: _____ Fax No.: _____

We have no record of the above identified employee.

We are no longer the plan administrator for the above captioned employee. According to our records, the new plan administrator is: _____

We are the insurer for the above captioned plan, but we are not the designated Plan Administrator and have not been given any discretionary authority or control over the Plan's administration. We cannot forward your SPD request to the Plan Administrator because we do not know the identity of the Plan Administrator.

We are not the designated Plan Administrator, but we have been delegated the responsibility of administering the plan, and have discretionary authority or control over the plan's administration. However, we never had a copy of the SPD and as such we cannot provide you with a copy of the same.

We are the named fiduciary for the above identified ERISA plan. The plan sponsor is solely responsible for developing and distributing the SPD. We did not possess or maintain the SPD when we made claims determinations and appeal decisions.

We refuse to provide you with the requested SPD for the following reasons:

Your Name (Print) _____ Title: _____
Signature: _____ Date: _____
Direct Telephone Number: _____



What does it mean?

All plans regardless of size are required to have a plan document for all welfare benefits. Some of these benefits include:

- **Health**
- **Dental**
- **Vision**
- **Life Long Term Disability (LTD)**
- **Short Term Disability (STD)**
- **Prescription**
- **Cafeteria Plan**



What does it mean? (Cont.)

Employers must have a plan document which must be made available within 30 days of request from either the provider or participant.

Employers are required to hand out Summary Plan Descriptions (SPD's) with annual plan modifications.

Does the insurance company outline represent a SPD? In most cases NO.



Additional Fees and Taxes

Cadillac Plan	
Overview	<ul style="list-style-type: none">• Tax on plans with generous benefits• A 40% excise tax on high cost health plans that exceed \$10,200 for individual and \$27,500 for family coverage
Effective	<ul style="list-style-type: none">• 2018
Cost impact	<ul style="list-style-type: none">• Actual impact TBD based on final regulations



Multi-Employer Plans

- A large employer member will not be subject to a tax penalty if:
 - The employer is required to contribute to a Multi-employer plan for full time employees pursuant to a collective bargain agreement
 - The coverage under the Multi-employer Plan is affordable and provides minimum value as well as dependent coverage



V. Top 10 Compliance Issues For 2017



Wellness (Effective for 1/1/17 Plan Year, EEOC Rules

- Biometric Testing
- Health Risk Analysis
- Genetic Risk
- Employee Spouse Risk Access
- Allows 30% discount (Single Rate Only)
- Smoking
- Weight Control

If you collect data you must use it



Essential Health Benefits

A. No Annual Limits for Benefits

- Measured against state benchmark plan

B. Out of Pocket Limits

	Single	Family
2016	\$6,850	\$13,700.00
2017	\$7,150	\$14,300.00



Mental Parity + Addiction Act (DOL Audit)

- A. Benefits cannot be more restrictive than standard benefits (Surgical)
- B. Providers = Patients can request data and coverage from carrier (30 days to supply info) ERISA



Affordability – 30 Hour – ACA Reporting

A. Flex Plan Credits

- If credit can be used for non medical benefits (Cash)
- Does not reduce employees premium liability for determining affordability

B. If Credit can Only be Used for Medical Plan

- Is used for determining affordability



Opt Out Plan (Employee Waives For Cash)

- Cash and Employee Contribution are Added Together to Determine Affordability.
 - When combined with other coverage (Spouse)
 - Medicaid = Pending Rules



30 Hours

- Disabled Individual (Not Terminated)
 - Covered under Short Term or Long Term Disability Coverage
 - Employer Pay = Convert
 - Employee PreTax = Convert
 - Employee Only PostTax = No Conversion
 - State Disability = No Conversion
 - Workers Comp = No Conversion
 - Unemployment = No Conversion



ACA Reporting 1094-C and 1095-C

- Employee: 1095-C due January 31, 2017
- IRS: 1094-C and 1095-C due February 28, 2017
- Electronic Filing (250 W2's): March 31, 2017

- NO Longer “Good Faith Standard”
- **MUST BE CORRECT** (*\$260 penalty per missed or inaccurate return*)



Preventive Care

- Keep up with Benefit Updates



Required Notices to Employees

A. Summary of Benefits & Coverage (SBC)

- Each renewal and for new hires
- New forms for plans beginning 4/1/2017

B. Employer Notice Health Exchange

- Linguistically Appropriate
- Annually and New Hires
- Grandfather Plan Notice
- Patient Protection Notice
- Summary Plan Description

KEEP RECORDS!



FLSA Overtime Rules

A. Not Just a Compensation Issue

- 401K match or Safe Harbor
- Profit Sharing
- Defined Benefit Plans
- Long Term Disability
- Affordability under W2 Box 1 Safe Harbor (ACA)



HIPPA

How Are You, Your Broker & Insurance Carrier

- **Protecting Employee**
 1. Privacy
 2. Security
- **Special Care for:**
 1. Electronic Transactions
 2. Files
 3. Claims Help



DOL Fiduciary Rule

HSA accounts are included as an investment vehicle making both the employer and agent/broker a potential fiduciary



Expatriate Health Plans

Expatriate Health Coverage Clarification Act of 2014 (EHCCA)

- Tri Agency
- IRS
- DOL
- HHS

Guidance for proposed final rule effective 1/1/2017



What is a Qualified Expatriate?

Category A: Non US Nationals assigned to the US for work with anticipation of multiple moves outside the United States with some work purpose in the same year

Category B: Individuals who work outside the US for at least 180 days in a consecutive 12 month period

Category C: Individuals traveling outside the US for 180 days in a 12 month period or Those coming to the US for no more than 12 months. Individuals must also meet the PHSA's "Associated Ties" test.



What Doesn't Qualify?

- A. Travel Insurance**
- B. Hospital and Fixed Indemnity**
- C. Specified Disease Coverage**
- D. Short Term Limited Duration Insurance (3 Months)**



Who is an “Applicable Large Employer” (ALE) Pg. 29-37

Full Time Equivalent (FTE)

Controlled Group

Hourly vs. Salary

Seasonal

Variable Hour

- a. Measurement
- b. Administrative
- c. Stability

“Pay or Play” Penalties Pg. 38-44

No Coverage Offered

Coverage is Offered

1. MEC Only (Minimum Essential Coverage IRC 6055)
2. MV (Minimum Value IRC 6056)
3. Affordable
 - a. W2 Safe Harbor
 - b. Federal Poverty Line Safe Harbor
 - c. Rate of Pay Safe Harbor

Cadillac Plan

Reporting Pg., 46-52 + Supplement

PCORI

W2

Reinsurance Fee

1094 B+C

1095 B+C

1095 A

ERISA and ACA Compliance Pg. 53 + Supplement

2012 DOL “Health Benefits Security Project”

1. Audits
2. Claims

SPD’s

Annual Notices