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Healthcare Reform  
Michigan Estate Planning Council  
Benton Harbor, MI November 18, 2014






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Welcome and Introductions

Health Care Reform is a transformative event - it will fundamentally change the way health care is paid for, delivered and consumed in the U.S. over the next 20 to 30 years, and it will affect:

				
<b>Every employer</b>	<b>Every person residing in the U.S.</b>	<b>Every health care provider</b>	<b>Every pharmacy benefits management provider and every pharmaceutical company</b>	<b>Every medical device manufacturer</b>

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## Understanding the Affordable Care Act (ACA) Is Extremely Complex



Health Care Reform is a jigsaw puzzle that is difficult to comprehend and put together, because:

1. No one has all the pieces and
2. Some pieces don't fit

Managing shared responsibility requirements will need an integrated approach to workforce planning and administration

\*This feature is scheduled to become available January 2014.

## Agenda

- What is the individual mandate?
- What companies are applicable large employers?
- Who must be offered coverage?
- What is affordable coverage?
- What are the penalties?
- Strategic options

## Individual Mandate

### Individual mandate to obtain coverage

- Penalty for individual not carrying coverage is greater of \$95 or 1% of income in 2014.
- Phases in up to greater of \$695 or 2.5% of income by 2016
- Unaffordability exceptions apply
- Expectation is that many individuals may remain uninsured

## Who is a “Large” Employer?

### ACA applies to “large” employers

- Average at least 50 FTEs during the preceding year
  - “Full-time” means 30 hrs/week
  - Includes seasonal employees (potential adjustment)
  - Transition rule moves deadline to offer coverage to 2016 for employers with 50 to 100 FTEs based on six month average in 2014
  - Employers with more than 100 FTEs are subject to “pay or play” mandate in 2015

## Who are Employees?

Must count all common law employees

- Temporary employees
- Seasonal employees
- Part-time employees
- Interns
- Co-op employees


Do not need to count:

- Sole proprietors
- Partners
- More than 2% S corporation shareholders

## Aggregation Rules Apply

Organizations under common control treated as one company:

- Parent-subidiaries
- Brother-sister corporations
- Partnerships
- Proprietorships under common control
- Affiliated service groups

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### Are You a Large Employer?

**Example:** During each calendar month of 2013, an employer has 20 full-time employees who average at least 30 hours per week, and 40 part-time employees who average 90 hours per month

<b>Total number of Full-Time Employees</b>	+	<b>Total number of Full-Time equivalent employees (FTEs)</b>	=	?
20	+	30 <small>(40 × 90 ÷ 120)</small>	=	50

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### Who Must Be Offered Coverage?

- Employees who average at least 30 hours per week
- The employee's children

Can miss a small percentage/number of employees (but may still pay a penalty)

- Greater of 5% or 5 employees
- During "transition" phase-in 70% coverage is considered substantially all employees covered

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## Hours of Service

Must count:

- Hours while working
- hours entitled to pay:
  - Vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, or leave of absence

## Affordability Requirement

Two components:

- Cost does not exceed 9.5% of employee's household income
  - Note that current National average of employees' household income spent on healthcare coverage is around 4.5% so many employers have room to raise prices if necessary (varies widely on demographics of workforce – i.e. fast food vs. professional services)
- Coverage offers “minimum value”

## 9.5% of Income Test

- Employee's required contribution for self-only coverage does not exceed 9.5% of the employee's household income
  - Problem: Do not know employee's household income
- Good news: Three safe harbors
  - No penalty—even if employee qualifies for subsidy

## W-2 Safe Harbor

Cost is no more than 9.5% of W-2 Box 1 income

Drawbacks:

- After the fact verification
- Box 1 excludes tax-free contributions to 401(k)/403(b) plans and cafeteria plans

## Rate of Pay Safe Harbor

Based on rate of pay:

- For hourly employees: cost does not exceed 9.5% of hourly rate of pay x 130 hours
- For salaried employees: use monthly salary

Caution: May not use this method if employer has reduced employee's hourly wage or salary

## Federal Poverty Line Safe Harbor

Cost does not exceed 9.5% of Federal poverty line for a single individual

- Use most recently published poverty guidelines as of the first day of the plan year



## What is Minimum Value?

Minimum level of benefits—60% of costs

- 3 ways to meet this standard:
  - Minimum value calculator (<http://cciio.cms.gov/resources/regulations/index.html#pm>)
  - Design-based safe harbors
  - Actuarial certification
- Prior to healthcare reform, the National average actuarial value was around 83% meaning some employers have room to scale down benefits if needed (higher deductibles, co-pays, etc.)

## Employer Shared Responsibility

### Deciding Whether to Play or Pay in 2015

#### Play

Continue to offer healthcare coverage to employees and dependents and make certain the coverage is affordable and has minimum value

#### Pay

Stop providing healthcare coverage and pay a flat, nondeductible penalty for all full-time employees - essentially those working 30 or more hours per week on average

## Types of Penalties

Failing to offer coverage to nearly all full-time employees (4980H(a) penalty)

- Based on employer's total number of full-time employees

Penalty for employees who obtained subsidized coverage (4980H(b) penalty)

- Based on number of employees who obtain subsidized coverage

Penalties triggered if employee obtains subsidized coverage through an exchange / marketplace

## Failing to Offer Coverage

Penalty amount is the product of:

- Number of full-time employees (reduced by allocable share of 30 employee-reduction\*)
- monthly penalty amount—initially set at 1/12 of \$2,000
  - \*30-employee reduction applies to entire controlled group
- Allocate ratably among employers

## Having Employees Obtain Subsidized Coverage

Penalty is the product of:

- Number of employees receiving subsidized coverage
- Monthly penalty amount—currently 1/12 of \$3000

Limit: Penalty cannot be more than the penalty would be for failure to offer coverage

## Employers Need a Strategic Framework to Meet ACA Challenges

- The ACA requires employers to **be proactive and strategic** – a reactive approach to the ACA will not work.
- Health Care Reform is not only about benefits. It can have far reaching implications across your business and enormous financial consequences.
- **Failing to be proactive is potentially disastrous to your bottom line.**

## Should Employers Play or Pay?

Cost of penalty vs. cost of coverage

- Coverage is tax deductible
- Penalty is NOT tax deductible

Impact on Employees

- Will exchange / marketplace coverage cost more?
- Will employees demand higher pay?

## Offering Healthcare

- Towers Watson just reported that 88% of employers affirmed their commitment to offer healthcare benefits for the foreseeable future
- 38% of surveyed employers are considering or plan to reduce dependent coverage
- 55% plan to increase the employee cost-share
- Nearly 60% offering retiree benefits will drop them when the exchanges become operational

## Results of Willis Survey

- More than ½ of employers believe that other similar employers will pass more of the cost of dependent coverage to employees
- 1/3 believe that similar employers will reduce coverage to lowest-cost package that will avoid “pay or play” penalty
- Majority believe wellness programs will expand in scope
- 2/3 believe employers expect to increase employee contributions

## Key Financial Considerations - for Employers

- Scope of potential additions to group plan – how many of your current employees are ineligible or waive coverage?
- Income of workforce – if you have relatively few employees under 400% of Federal poverty line, not many will qualify for State exchange subsidy and there may be room to increase employee cost sharing
- Actuarial values of current plan designs and employer subsidization levels – if plan is relatively rich, you may look at scaling back benefit levels or increasing deductibles and co-pays if needed to remain competitive

## What To Do

- Are you subject to play or pay?
- Determine whether to play or pay
  - Plan design changes
  - Cost of providing vs. cost of penalties

## Contact

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