Affordable Care Act Update

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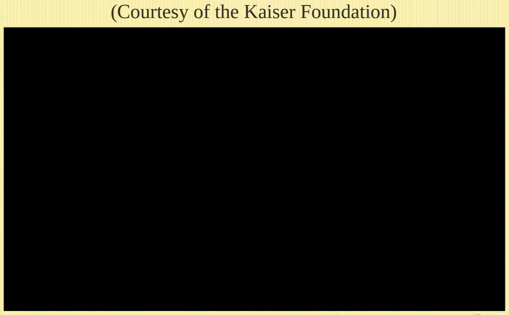
The ACA explained in 7 minutes or less …

(Courtesy of the Kaiser Foundation)



Medicaid Expansion Status

- Tennessee has not yet chosen to expand Medicaid.
- Governor Haslam has been to Washington several times to discuss his proposed "Tennessee Plan," which involves expanding our state's TennCare program.
- The proposed Tennessee Plan would use federal money to allow uninsured adults to buy private insurance on the federal health insurance exchanges.

Medicaid Expansion Status (Continued)

- In September, CMS approved a similar plan, called the "Premium Assistance Model" or the "Arkansas Private Option Plan."
- Much speculation that other states – including Tennessee, Michigan and Iowa – will alter their proposed plans to match the Arkansas Plan in order to expedite approval.

Tennessee Exchange

- Tennessee defaulted to a federally-facilitated health insurance Exchange.
- Average premiums for Tennesseans seeking coverage under new health insurance markets rank near the lowest of the participating states.
- For instance, premiums under the cheapest, or Bronze, plan offered in Tennessee would average $181 per month, the third-lowest rate in the country above Oklahoma and Minnesota.

Tennessee Exchange (Continued)

- Premiums under the next-highest level, or Silver, plan offered in Tennessee would average $235 per month, the second-lowest rate in the country above Minnesota.
- Those premiums do not take into consideration tax credits.
- The bottom line will depend on income, location, plan type, family size and even tobacco use.

Individuals Who Might Use the Exchange

25 million

- Uninsured
- Unemployed
- Self-Employed in Individual Market Now

Of those, **19 million**

Will likely be eligible for a **Federal Premium Assistance Tax Credit**

•Individuals/Families with Incomes between 100% and 400% of the FPL

•Subsidy will be based on Individuals paying premiums equal to 2% - 9½% of income

•2% for those at 100%; rises to 9½% at 400%

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What Do the Subsidy Numbers Look Like …

Income Level (2013)	Premium as a Percent of Income	Household = 1 (Income/Max)	Household = 4 (Income/Max)
Up to 133% FPL	2%	$11,490 ($217)	$23,550 ($471)
133% FPL	3%	$15,282 ($458)	$31,322 ($970)
150% FPL	4%	$17,235 ($689)	$35,325 ($1,413)
200% FPL	6.3%	$22,980 ($1,448)	$47,100 ($2,967)
300% FPL	8.05%	$34,470 ($2,775)	$70,650 ($5,687)
400% FPL	9.50%	$45,960 ($4,366)	$94,200 ($8,949)

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How much will INDIVIDUALS who qualify for Tax Credits pay for coverage on the Exchange?

ASSUMPTIONS: $11,490 Income (100% of FPL); Silver Level Plan (70%)

AGE	Unsubsidized Premium	Max Premium % Paid by Individual	Max Premium $$$ Paid by Individual	Tax Credit provided by PPACA
30	$3,426	2.0%	$230	$3,196
40	$3,857	2.0%	$230	$3,627
50	$5,390	2.0%	$230	$5,160
60	$8,191	2.0%	$230	$7,961

ASSUMPTIONS: $25,000 Income (218% of FPL); Silver Level Plan (70%)

AGE	Unsubsidized Premium	Max Premium % Paid by Individual	Max Premium $$$ Paid by Individual	Tax Credit provided by PPACA
30	$3,426	6.92%	$1,729	$1,697
40	$3,857	6.92%	$1,729	$2,128
50	$5,390	6.92%	$1,729	$3,661
60	$8,191	6.92%	$1,729	$6,462

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Individual Application for Exchange Credits / Subsidies

- For individuals who seek credits or subsidies for Exchange coverage because they assert that employer-sponsored coverage is unaffordable or is not of minimum value, the employee must provide to the Exchange:
  - Name, address, and date of birth for each individual who is to be covered by the plan
  - Individual's SS# (if applicable) and any identifying information with respect to the individual's immigration status (to be determined by the Treasury Secretary in conjunction with the Secretary of Homeland Security)
  - Name, address, and TIN of the Employer
  - **Whether the enrollee or individual is a full-time employee and whether the employer provides such minimum essential coverage**
  - **If the employer provides such "minimum essential coverage", the lowest cost option for the enrollee's or individual's enrollment status and the enrollee's or individual's required contribution under the employer-sponsored plan**

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Reminder Slide: Effect on Employer

- Effective January 1, 2015, employers with 50 or more FTEs that fail to offer "minimum essential" health coverage to at least 95% of their full-time employees (and their children) will pay a penalty *if any full-time employee receives a federal subsidy to purchase insurance through a health exchange*. This "no-coverage" penalty under 4980H(a) will be $2,000 per year multiplied by the number of full-time employees in excess of 30.

- Effective January 1, 2015, employers with 50 or more FTEs that offer "minimum essential" coverage, but fail to provide "minimum value" or provide coverage deemed "unaffordable," will pay a penalty under 4980H(b) that is the *lesser* of $2,000 per year multiplied by the number of full-time employees (minus 30) or $3,000 multiplied by the *number of full-time employees who receive a premium tax credit to purchase coverage through a health insurance exchange*.

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What are the 10 "Essential Health Benefits"?

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What's "Affordable"?

Hourly Wage	Annualized Income (30 hrs)	9.5% of Annual Income equals…	9.5% of Monthly Income equals…
$7.25/hour	$11,310	$1,074.45/year	$89.54/month
$7.50/hour	$11,700	$1,111.50/year	$92.63/month
$7.75/hour	$12,090	$1,148.55/year	$95.71/month
$8.00/hour	$12,480	$1,185.60/year	$98.80/month
$8.50/hour	$13,260	$1,259.70/year	$104.98/month
$9.00/hour	$14,040	$1,333.80/year	$111.15/month
$10.00/hour	$15,600	$1,482.00/year	$123.50/month

How much do your employees pay for "Employee only" coverage?

If your contributions exceed these amounts, you should evaluate your contribution structure…because you could be exposed to tax penalties (based on the "affordability" requirement).

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Minimum Value

- **Minimum Value**: A plan fails to provide minimum value if "the plan's share of the total allowed costs of benefits provided under the plan is less than 60% of such costs."
  - Generally understood to be a 60% actuarial value test (percentage of medical expenses – deductibles, co-insurance, co-payments, etc. – paid for by the plan for a standard population and set of allowed charges)
  - Minimum value will be determined in comparison to a standard population and claims data set that is driven by the provision of four (4) core categories of benefits:
    - Hospital / ER Services
    - Physician / Mid-Level Practitioner Care
    - Pharmacy Benefits
    - Lab / Imaging Services

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Who is a Large Employer under PPACA?

- Any employer with 50+ full-time equivalents is considered a large employer.
- IRC § 4980H applies to all common law employers, including governmental entities, churches, tax-exempt organizations with at least 50 full-time equivalent employees.
- Foreign companies with at least 50 full-time equivalent employees performing work in the US with US-source compensation also are subject to the law.

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Are You a Large Employer?

Counting Employees

Count	Do Not Count
Common Law Employees (right to control and direct as to result to be accomplished and as to the details and means by which it is accomplished)	Independent Contractors
	Leased Employees
	Sole Proprietor
Hours of service (as an employee) for individuals who provide services as both an employee and a non-employee (i.e., director, partner)	Partner in a Partnership
	2% S Corp Shareholder

Calculating Full-Time Employees

With respect to a calendar month…

An employee who is employed on average at least **30 hours of service per week**

130 hours of service in a calendar month = the monthly equivalent of 30 hours of service/week

Calculating Full-Time "Equivalents"

Add hours of service in a month for PT employees (up to 120 hours/person)

Divide total hours by 120

Result: Number of FTEs for the month

Hours of Service Rules

Hours for which an Employee is Paid

- Vacation
- Holiday
- Illness
- Disability
- Jury Duty
- Military Duty
- Paid Leave

Hourly Employees

- Measure Actual Hours Worked

Non-Hourly Employees

- Use Actual Hours Worked
- Days-Worked Equivalency (8 hours per day)
- Weeks-Worked Equivalency (40 hours per week)
- May not understate hours using equivalency

Seasonal Employee Exception

Seasonal employees

An employer is **not a large employer** if:

(1) the employer's workforce exceeds 50 full-time employees for 120 days (4 months) or fewer during the calendar year; and,

(2) the employees in excess of 50 employed during that period were seasonal workers

For SMALL EMPLOYERS, the Question is…

- Should we continue to offer a group health insurance plan?
- Are we doing a **disservice** to our low-paid employees by making coverage affordable?
- How should we evaluate (a) whether to offer coverage; and, (b) how much to charge our employees for it?

Planning Opportunities for Large Employers

- If the employer has a small number of full-time employees but many part-time employees, and are borderline at the 50 FTE mark, employers should consider capping part-time employees' hours at twenty-eight (28) per week to avoid an "accidental" classification as full-time (and thus possibly bumping the employer into the "large employer" classification).

Planning Opportunities for Large Employers (Continued)

- Depending on the cost of coverage, of course, it may be less expensive to pay the penalty than to provide coverage. Remember, however, to factor in the fact that the penalty is not tax deductible when doing the calculation to make this determination.

Planning Opportunities for Large Employers (Continued)

- If the employer is currently paying for or contributing substantially to spousal coverage, the employer may deny coverage for spouses who are eligible for coverage through their own employers. Alternatively, employers may require a substantial surcharge to be paid for spousal coverage. Of course, the difficulty is in determining which spouses are eligible for coverage through their own employers.

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Planning Opportunities for Large Employers (Continued)

- Employers may consider providing a so-called "skinny" plan to their employees to minimize, but not avoid, penalties under 4980H. The goal is for a "skinny" plan to provide minimum coverage, but not minimum value. Employer would avoid paying the no coverage penalty under 4980H(a), but would pay penalty under 4980H(b).

Reporting Requirements 2013/2104

- W-2 Reporting
  - Only applicable to employers who file 250 or more W-2s
  - For 2012 W-2s issued in 2013, must show aggregate cost of health insurance
- Summary of Benefits and Coverages
  - Effective for all plans renewing after October 1, 2012
  - Employer must provide uniform, concise, easy-to-read four page summary of benefits and coverage.
  - Provide at initial enrollment, open enrollment and upon request.

Reporting Requirements 2013/2104

- Notice of Exchange
  - Employers required to notify **all** employees regarding the availability of subsidized health insurance exchange coverage
  - Model notice at www.dol.gov
  - Required to have been given as of October 1, 2013

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ACA Provisions Effective in 2014

- 90-Day Waiting Period Limit
- Maximum Out of Pocket Limitation
- Patient-Centered Outcomes Research Institute Fee
- Transitional Reinsurance Fee
- Preexisting Condition Exclusions
- Elimination of Annual Limits

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Budget Resolution Effect on ACA

- Requires the HHS Secretary to certify to Congress that the Exchanges verify eligibility for premium tax credits and cost-sharing reduction payments consistently with the requirements of Section 1411 of the ACA
- By January 1, 2014, HHS must submit a report to Congress as to how the exchanges are verifying eligibility
- By July 1, 2014, the HHS Office of Inspector General must submit a report to Congress as to the effectiveness of the eligibility procedures and safeguards in place for preventing inaccuracies and fraud

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Budget Resolution Effect on ACA (Continued)

- Section 1411, however, provides few specifics as to how financial eligibility is to be determined
- HHS may for political reasons choose to enhance verification procedures, but there is nothing in the ACA or in the budget resolution that would require it to do so
- HHS already requires far more to verify exchange eligibility than the IRS often requires to verify eligibility for other tax benefits, which in aggregate probably cost the U.S. Treasury far more money

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Delays

- Employer Mandate
- Verification of Coverage
- Verification of Income**
- Medicaid Electronic Notices
- Large Employer Reporting

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