



Health Reform

Patient Protection and Affordable Care Act

Small Business Commission

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— **Setting the Course for Responsible Health Care Reform** —





“Small Business” in PPACA

How many different ways is it defined????

- 25 full time equivalent employees –SB Tax Credit in 2010**
- 1- 100 –May be eligible for wellness grants in 2011**
- 50 full time equivalent employees – Employer Penalties in 2014**
- 1- 100 –Must offer essential benefits in 2014**
- States can include 1-50 in exchanges with an option to increase to 100, and in 2017 could include Employers over 100**



Timeline of Major Provisions Affecting Employers

Effective Date	Requirements
First plan year after 9/23/2010	<p>Coverage of children to age 26 – even if child is married</p> <p>No lifetime limits and annual limits only as permitted by HHS through 2014</p> <p>No pre-existing condition exclusions for children under age 19</p> <p>For non-grandfathered plans</p> <ul style="list-style-type: none"> – HHS approved external review process – First dollar coverage for preventive health services – Non-discrimination in insured benefits
2011	<ul style="list-style-type: none"> • Over the counter (OTC) drugs no longer considered qualified medical expense unless prescribed • Increased penalty (20%) for non-qualified HSA and Archer MSA distributions • CLASS Act (Community Living Assistance Services and Supports)
2012	<ul style="list-style-type: none"> • Provide uniform statement of benefits to employees • Provide notice of any modification to uniform statement at least 60 days in advance of implementation • Employers must report value of health benefits on W-2 (may report 2012 in 2013) • 1099 changed to include goods and services
2013	<ul style="list-style-type: none"> • \$2,500 maximum contribution to Healthcare flexible spending account (FSA) • New Medicare surtaxes on highly compensated employees • Notify employees regarding availability of exchange
2014	<p>No waiting periods greater than 90 days</p> <p>200 + EE Must auto enroll employees in plan (note: effective date is unclear – may be as early as 2011)</p> <p>Guaranteed issue, no pre-existing condition exclusions (adults and children), no annual limits</p> <p>Individual mandate</p> <p>Comply with exchange-related requirements: “Employer Penalties/ “Free choice” vouchers</p> <p>Enhanced Wellness incentives (e.g., 30% of employee-only premium)</p> <p>Maximum out-of-pocket limits (consistent with HSA-compatible OOP limits) for non-grandfathered plans</p> <p>Report plan design, coverage, monthly enrollment, and related data to government</p>
2017	<ul style="list-style-type: none"> • Exchange may be available to large employers (>100 employees; available to small employers in 2014)
2018	<ul style="list-style-type: none"> • 40% excise tax on high-cost plans



TAXES



- MLR/Carrier Rebates (2011) (PPACA §1001, §10101; PHS A §2718)
 - ❑ Increase to 20% of tax on distributions from HSAs and MSAs (2011) (PPACA §9004)
 - ❑ New 3.8% Medicare Investment Tax on high-income individuals (2013) (PPACA §9015)
 - ❑ 0.9% increase the Medicare insurance payroll tax on High Income Individuals (2013) (PPACA §9015) – *note no match by ER's on this portion*
 - ❑ Annual limitation on contributions to a health FSA of \$2,500 (2013) (PPACA §9005; IRC §125; HCEARB §1403)
 - ❑ Employer Mandate – fine of \$2,000 or \$3000/employee (2014) (PPACA §1511-1515; HCEARB §1003) --- 50 full time equivalent workers
- Individual Mandate – penalties equal the greater of \$95/individual or 1% of family income in 2014; \$325/individual or 2% of family income in 2015; \$695/individual or 2.5% of family income in 2016, and rise in accordance with cost-of-living adjustments thereafter. (2014) (PPACA §1501; HCEARB § 1002)
 - ❑ 40% Excise Tax on certain “Cadillac Plans” (2018) (PPACA §9001; IRC §4980I; HCEARB §1406)



Grandfathered Plans

in existence prior to 3/23/2010

Cannot

- Eliminate all benefits to diagnose or treat a particular condition
- ↑ % coinsurance charges
- ↑ copays, fixed amount cost sharing “significantly” (med infl. + 15%)
- ↓ ER contribution “significantly” (> 5%)
- New or decreased annual limits
- Change carriers (after Nov 15, 2010-maybe!!)
- Switch EE’s plans: corporate mergers/sales to avoid compliance

Can (for the moment)

- Change premiums
- Some structural changes
- Change provider networks
- Change RX formulary
- Add new employees /enrollees
- Enroll new dependents
- Make changes to comply w/law (“normal adjustments)

(Each Benefits Package considered Separately)



What applies to Grandfathered Plans

Reforms that are required of all plans, regardless if grandfathered
– including **fully insured, self funded, CBA's, everyone....**

- No lifetime coverage limits for “essential benefits” (2010)
- No annual coverage limits on essential benefits except as may be permitted by HHS from 2010 to 2014 ; after 2014, annual limits are completely prohibited
- No pre –existing condition exclusions (2010- 2014 only applies to children younger than 19 , and applies to all thereafter
- A ban on policy rescissions except in cases of fraud (2010)
- Extension of dependent coverage until the dependent turns 26 years old (2014):
from 2010 to 2014, grandfathered plans are only obligated to offer such coverage to those dependents who are not directly eligible for their own employer-provided coverage: and
- A bar on imposing waiting periods on plan participation in excess of 90 days(2014)



Prohibiting Discrimination-2010

for plan years beginning on or after 6 months of enactment –
unless Grandfathered

*Applies now **IRS §105(h)** to fully insured plans (& self funded already subjected to)*

Prohibits discrimination in favor of highly compensated Note: controlled group rules apply

Looks at classes, eligibility and benefits – which include contributions

Eligibility Test – must pass one of three defined tests and

70% Test

70%/80% Test

Safe Harbor Test

Benefits Test

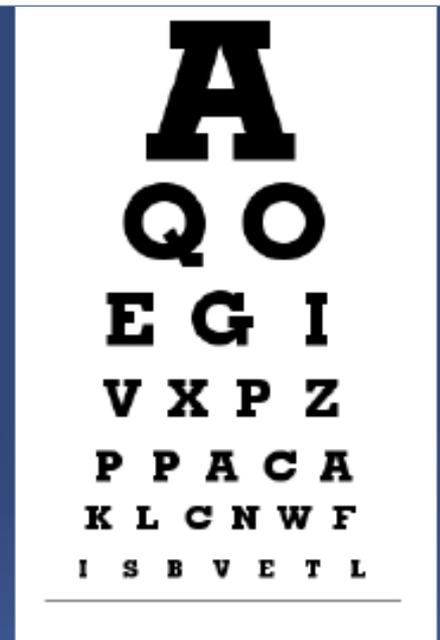
All benefits of HCE must be available to all Non HCE

Maximum attributable ER contribution must be uniform for all participants and may not be based upon participants age, Years of Service or comp.

The Non-disc. Test requires the plan to pass BOTH tests.

How Do the Tests Work?

- Must satisfy the following two tests:
 - Eligibility test (really more participation test)
 - Benefits test (really universal availability test)
- Both tests look to if the plan disproportionately benefits highly compensated employees (HCEs):
 - 5 highest paid officers
 - 10% or more shareholder; AND
 - Highest 25% paid (disregarding excludable employees)
- Excludable employees include:
 - Employees with < 3 years of service
 - Part-time employees working < 35/hrs per week
 - Seasonal employees
 - Employees subject to collective bargaining agreement
 - Employees < age 25
 - Nonresident aliens



IRS Post Card – SB tax credit 2010



The recently enacted Patient Protection and Affordable Care Act could earn you a new tax credit this year for providing health insurance for your employees

If your small business or tax-exempt organization pays employee health insurance premiums in 2010, you may be eligible to claim a new credit on your 2010 tax return. Employers with fewer than 25 employees (more if you have part-time employees), and less than \$50,000 in average wages, may be eligible.

How much you may receive

Eligible small employers could qualify for a **credit worth up to 35% of premiums** paid in 2010 (for businesses) or **25% of premiums paid** (for tax-exempt groups).

Find out if you're eligible

Visit www.irs.gov or consult your tax professional to learn more about whether your small business qualifies for this valuable incentive to provide health coverage for your employees.

Visit www.irs.gov for more information

Notice 1397 (4-2010) Catalog Number 54941Y Department of the Treasury Internal Revenue Service www.irs.gov

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Small Bus tax credits– Ave Small group premium Amounts

IRS website has a state by state listing... 2010 taxable year

<i>State</i>	<i>EE Only</i>	<i>Family</i>
<i>VA</i>	<i>407/mo</i>	<i>945/mo</i>
<i>NC</i>	<i>410</i>	<i>965</i>
<i>SC</i>	<i>408</i>	<i>981</i>
<i>GA</i>	<i>385</i>	<i>883</i>
<i>KY</i>	<i>357</i>	<i>870</i>
<i>Tenn</i>	<i>384</i>	<i>864</i>
<i>FL</i>	<i>430</i>	<i>1037</i>
<i>Mass</i>	<i>475</i>	<i>1178</i>
<i>NY</i>	<i>453</i>	<i>1072</i>
<i>RI</i>	<i>490</i>	<i>1148</i>
<i>Calif</i>	<i>385</i>	<i>913</i>
<i>Alaska</i>	<i>517</i>	<i>1144</i>



High Risk Pools - PCIP-2010

Pre-Existing Condition Insurance Plan- *must have been Uninsured for 6 months-*

Effective 7-1-2010, eligible residents of Virginia will be able to apply for coverage through the state PCIP run by the US Dept of HHS

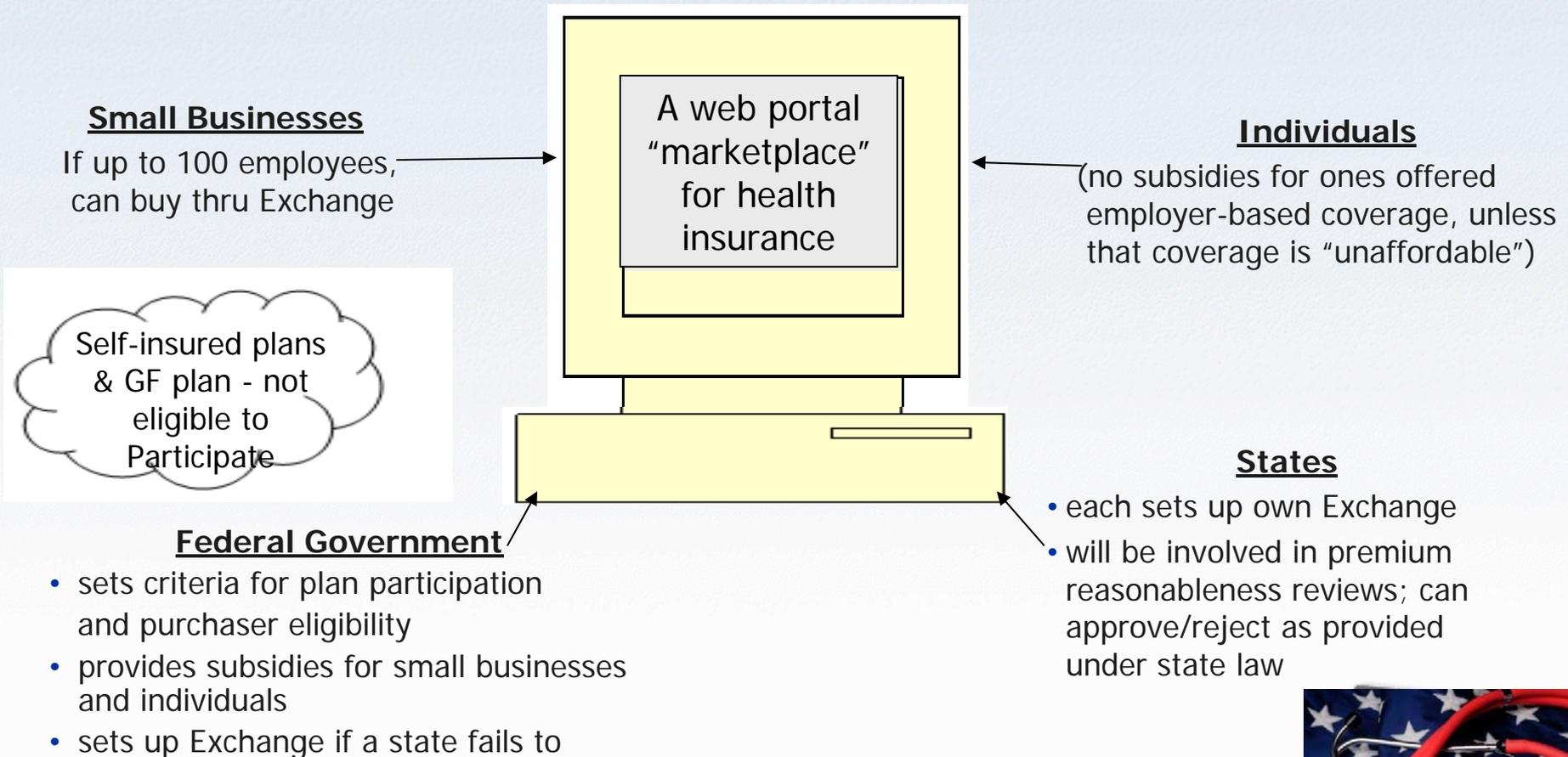
- ***Age 0-34 --- \$289/mo.***
- ***Age 35-44 --- \$347/mo.***
- ***Age 45-54 --- \$443/mo.***
- ***Age 55+ --- \$616/mo.***

• ***\$2500 deductible plan, after ded then \$25 copay for office visits, \$4 - \$30 RX, 20% coinsurance up to \$5,950 Out of pocket max. Cost may be higher if you go out of network***

Call 866-717-5826 for more information



Exchanges - 2014



Will the Employer Pay A Penalty? *beginning in 2014*

Are you a large employer?

- at least 50 full-time equivalent workers
- including full-time [30+hours per week] and part-time workers [prorated]
- excluding seasonal workers [up to 120 days per year]

yes

no

Are any of your full-time employees in an exchange plan and receiving a premium credit?

yes

no

Do you have more than 30 full-time employees?

yes

no

Do you provide health insurance?

yes

no

No penalty

Pay Monthly Penalty, lesser of:

$1/12 \times \$2,000 \times$
(Number of full-time employees - 30)

or

$1/12 \times \$3,000 \times$
(Number of full-time employees who receive credits for exchange coverage)

Pay Monthly Penalty

$1/12 \times \$2,000 \times$
(Number of full-time employees - 30)

Summary of Potential Employer Penalties under PPACA, Cong. Research Service
May 14, 2010

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Unaffordable Coverage

- If employer offers its *full-time* employees (and their dependents) the *opportunity to enroll* in minimum essential coverage, **and**
- One or more *full-time* employees enrolls for coverage in an exchange and qualifies for a premium tax credit or cost sharing reduction because
 - The *employee's share of the premium at 400% FPL exceeds 9.5% of household income (sliding scale to 3%- 133%), or*
 - The *actuarial value of the coverage was less than 60%,*
then
 - Employer penalty = **\$3,000** for each full-time employee who receives a tax credit or cost-sharing reduction (**\$250/per mo**)
 - Penalty is lesser of \$3000 per subsidized EE or \$2000 per EE



Other New Changes – delayed 1 year

- All employers must include on their W2's the aggregate cost of employer sponsored health benefits . Collection starts in **2012** for issuing W2's in **January , 2013**. Will require payroll coordination. “Transparency” only now.....

W-2 Form

Selections
Employee: John Smith

Save Print W2 Print Instructions

2222	Void <input type="checkbox"/>	Employee's social security number 123-33-3333	OMB No. 1545-0008			
b Employer identification number (EIN) 376-21-4900		1 Wages, tips, other compensation 65432.21		2 Federal income tax withheld 11269.32		
c Employer's name, address, and ZIP code New Technology Company 100 Somewhere Rd. Suite #123 Los Angeles, CA 90000		3 Social security wages 61111.23		4 Social security tax withheld 3788.89		
		5 Medicare wages and tips 61111.23		6 Medicare tax withheld 886.11		
		7 Social security tips 5.00		8 Allocated tips 0.00		
d Control number 12313132		9 Advance EIC payment 0.00		10 Dependent care benefits 300.00		
e Employee's first name and Initial John B Last name Smith Suff. Dr. First Street #12345 Good Place Best City, CA 12345		11 Nonqualified plans 0.00		12a See instructions for box 12 D 12.21		
		13 <input checked="" type="checkbox"/> Retirement plan <input checked="" type="checkbox"/> Third-party sick pay <input checked="" type="checkbox"/>		12b 0.00		
		14 Other		12c 0.00		
f Employee's address and ZIP code		12d 0.00				
15 State CA	Employer's state ID number A123456789	16 State wages, tips, etc. 61116.23	17 State income tax 8000.22	18 Local wages, tips, etc. 54321.12	19 Local income tax 2345.12	20 Locality name BST
		0.00	0.00	0.00	0.00	

Form **W-2** Wage and Tax Statement **2009** Department of the Treasury—Internal Revenue Service



New Reporting Obligations

- To Enrollees: DOL has some model notices....
 - Grandfathering –disclose status, contact info, describe plan
 - Children age 26 – 30 day enrollment opportunity
 - Lifetime limits – 30 day special enrollment for those who have reached limit prior
 - Rescissions – 30 day advance notice to affected individuals
 - Access to certain providers – PCP and Pediatrician, no referral OB- GYN
 - Early Retiree (ERRP) if participating
- To Enrollees: Summary of Coverage (1/1/12) – 4 page, 12 pt font
- To Enrollees: **60 days Advance Notice** of Material Changes To Plan (eff. date unclear, likely no later 1/1/11)
- To Enrollees & HHS: Quality of Care Measures/Wellness Programs (2012) (No GF)
- To Enrollees ; Availability of Exchanges and Subsidies (1/1/2013)
- To HHS: Cost Data for MLRs (Informational (9/23/10))



Other New Changes – 1099's

- **1099s.** (CNMoney.com) -- An all-but-overlooked provision of the health reform law is threatening to swamp U.S. businesses with a flood of new tax paperwork.
- Section 9006 of the health care bill -- just a few lines buried in the 2,409-page document -- mandates that beginning in 2012 all companies will have to issue 1099 tax forms not just to contract workers but to any individual or corporation from which they buy more than \$600 in goods or services in a tax year."
- The stealth change radically alters the nature of 1099s and means businesses will have to issue millions of new tax documents each year. *May 5, 2010*



Other New Changes

- Nursing Moms get a Break in the New Law
- Employers (50+) are required to furnish “reasonable” breaks to nursing mothers
- Also, required to provide a place, other than the bathroom, that is shielded from view and free from intrusion from co-workers and the public, for Moms to express breast milk . For 1 year from birth



2010: President Obama Signs Health Care Reform Legislation



2010

- Insurance reforms – lifetime limits, no rescissions, 100% preventive services, dep age 26, no pre – X under age 19, enhanced external appeals
- “Grandfather” rules – post 3/23 changes in plans
- Small Business Tax credits – firms of 25 or less

2010

- Early Retiree Reinsurance (ERRP)
- High Risk Pools
- \$250 Medicare RX rebate “donut hole”
- Medicare Cuts – “doc Fix”

2010: President Obama Signs Health Care Reform Legislation



2011 – 2013

- Grants for small employer wellness programs
- OTC drugs in FSA, HSA, HRA only with doctor's prescription
- W2 – report valued Health insurance
- All working adults enrolled in CLASS, LTC program, unless they opt out.
- Medicare Advantage cuts
- Cost sharing on preventive services in Medicare eliminated
- FSA – limit contributions to \$2500 per year

2014

- Individual Mandate
- Individual market guaranteed issue
- Rating reforms for Group & Individual markets
- Employer Mandate & Penalty
- Employer Voucher
- Insurance exchanges, with subsidies up to 400% of federal poverty level
- Medicaid expansion
- Employers auto enroll (200+)



2010: President Obama Signs Health Care Reform Legislation



2015

- IPAB – Independent Payment Advisory Board to recommend reductions Medicare spending

2016

- Interstate Health Choice Compacts

2018

- High Cost insurance tax – 40% of single coverage over \$10,200 and family coverage over \$27,500
- “Cadillac” Tax



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