

# Patient Protection and Affordable Care Act (PPACA)



# The Vision

- q Every citizen has access to a comprehensive medical plan through employment, state operated exchange, or other regulated program such as Medicaid, Medicare or TriCare.
- q No one is denied coverage due to health condition
- q Medical coverage is affordable to lower and middle income individuals & families

# Key Elements

## Key elements of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act (PPACA)

- q Goal is to have almost all U.S. citizens and legal immigrants covered by health insurance
- q State run health care exchanges make it easier for individuals to obtain coverage
- q Incentives and penalties encourage individuals to procure health care coverage
- q Policies will have built in consumer protections (such as prohibitions on preexisting condition limitations, rescissions, and certain other unfavorable insurance practices)
- q Incentives and penalties designed to encourage employers to offer health care coverage to their employees
- q The PPACA is more focused on increasing access to health care than reducing health care costs.

# New Challenge for Employers

- q Anticipated mandates on coverage included in employer health plans
- q New reporting and disclosure requirements
- q New subsidies and tax credits
- q New penalties
- q Many changes will not become effective for several years

# 2014 Individual Mandate

## Individual Mandate

- q Effective in 2014, most US residents will be required to have "minimum essential health coverage."
- q Generally, the penalty for each individual without coverage will be the greater of \$95 or 1% of income in 2014 and will increase to the greater of \$695 or 2.5% of income in 2016.

# 2014 Health Exchange

States will establish and administer American Health Benefit Exchanges where certain individuals and small businesses (up to 100 employees) can buy “qualified health plans.”

- q Generally, “qualified health plans” are plans that offer coverage meeting specified standards for “essential health benefits” which include:
  - q preventive and wellness services, ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, prescription drugs, rehabilitative services and devices, laboratory services; chronic disease management, and pediatric services.
- q Exchange plans will have limits on cost-sharing.
- q Coverage for benefits will be available in 4 levels -- bronze, silver, gold, or platinum (i.e., benefits actuarially equivalent to 60%, 70%, 80%, or 90%, respectively, of the full actuarial value of the benefits provided under the plan).
- q Exchanges will determine individual eligibility for Exchange participation, premium tax credits, reduced cost-sharing, and individual responsibility exemptions. An applicant's citizenship/immigration status, income, and family size will be verified against federal records.

# Financial Aid

- q Individuals with family income up to 133% of Federal Poverty Level (FPL) will qualify for Medicaid.
- q Individuals with family income of 133 - 400% of FPL can receive premium assistance tax credits to buy coverage at an Exchange.

# 2014 Employer Mandates

- q Employers not legally required to provide coverage but large employers (50+ ees) that do *not* offer minimum essential coverage or do not contribute sufficiently for coverage will be liable for penalties.
- q Numerous other reporting and disclosure requirements are also applied to employers with 50 or more employees starting in 2014.

# 2010: Small Business Health Care Tax Credit

- q Small Business Health Care Tax Credit to help small businesses and small tax-exempt organizations afford the cost of covering their workers.
  - q Employers with up to 25 equivalent employees
  - q Average payroll up to \$50,000 per employee
  - q Employer must contribute at least 50% of plan cost
- q Example:
  - q *Employees: 10*
  - q *Wages: \$250,000 total, or \$25,000 per worker*
  - q *Employee Health Care Costs: \$70,000*
  - q 2010 Tax Credit: \$24,500 (35% credit)
  - q 2014 Tax Credit: \$35,000 (50% credit) for coverage purchased through an Exchange

Effective Date: 1/1/2010    Employer Size: Small – up to 25 FTE  
Effected Plans:  Fully Insured    Self Funded    Grandfathered

# 2010 All Plans

## Grandfathered Plans

Plans already in force at enactment may be kept unchanged other than enrollment changes. However, even grandfathered plans must conform with certain provisions:

- q Coverage for Pre-Existing Conditions (Children). Prohibition on denial of coverage to children with pre-existing conditions, in all employer plans. (The provision applies to adults as of 2014.)
- q Lifetime Limits. Lifetime limits for “essential health benefits” eliminated. “Non-essential” benefits may have lifetime limits.
- q Annual Limits Restrictions. Prior to 2014, annual limits are subject to a “restricted annual limit.” (Use of annual limits banned entirely in 2014, when the Insurance Exchanges are operational.)
- q Prohibition on rescission when a person gets sick (other than due to fraud or intentional misrepresentation).

Effective Date: PYs after 9/23/2010    Employer Size: All  
Effected Plans:  Fully Insured  Self Funded  Grandfathered

# Extended Dependent Coverage

Coverage for children up to age 26

- q Includes married dependents, but no requirement to cover child of dependent child
- q Grandfathered plans must offer extended coverage only to children not eligible for their own coverage
- q No imputed income provided the child has not reached age 27 in the calendar year.
  - q Plans already providing extended dependent coverage impute income in 2010 only for Jan, Feb, Mar.

Effective Date: PYs after 9/23/2010 Employer Size: All Effected  
Plans:  Fully Insured  Self Funded  Grandfathered

# 2010 New Plans

- q PCP and Ob-Gyn Choice. Allow plan participants to designate any network doctor, Ob/Gyn, or specialist as a primary care provider.
- q prohibition on plan requiring prior authorization for women to see obstetrician-gynecologists
- q Provide emergency care services without prior authorization as an in-network service.
- q Prevention and Wellness Requirements. Cover preventive and wellness benefits (e.g., immunizations and infant screenings) with no deductibles or other cost-sharing.

Effective Date: PYs after 9/23/2010    Employer Size: All  
Effected Plans:  Fully Insured    Self Funded    Grandfathered

# 2010 New Plans

- q Provide coverage to individuals participating in a clinical trial.
- q Appeals Process. Adopt new standards governing appeals processes for group health plans, including both internal and external appeals.

Effective Date: PYs after 9/23/2010    Employer Size: All  
Effectuated Plans:  Fully Insured  Self Funded     Grandfathered

# 2010 New Plans

- q Prohibition on Discrimination. Prohibition on new group health plans from establishing any eligibility rules for health care coverage that have the effect of discriminating in favor of higher-wage employees.
  - q New requirement for insured plans
  - q Medical plan eligibility and benefits may not favor higher wage employees
  - q Non-discrimination test rules expected to be similar to current test rules for self-funded medical plans

Effective Date: PYs after 9/23/2010    Employer Size: All  
Effected Plans:  Fully Insured  Self Funded     Grandfathered

# Simple Cafeteria Plan

- q 1/1/2011: Available to small employers
- q Nondiscrimination tests of “classic” cafeteria plan are waived.
- q Must provide eligibility to all employees with at least 1,000 hours of service. Must allow eligible employees to elect any benefit offered by the plan
- q Employer contributions must be at least:
  - q a uniform percentage (at least 2%) of the employee's compensation for the year, or
  - q twice the amount of the salary reduction contributions of each employee up to 6% of the employee's compensation

Effective Date: 1/1/2011      Employer Size: Up to 100 employees  
Effectuated Plans:  Fully Insured    Self Funded    Grandfathered

# W-2 Reporting

- q 1/1/2011: payroll department begins to collect aggregate cost information for employer sponsored health coverage.
- q Aggregate cost includes the employer cost plus the employee cost for any health plan including medical, dental, vision, HRA, drug,
- q Cost does not include Health FSA, HSA contributions, long term care, accident, disability plans
- q Reporting requirement begins with Form W-2 for the 2011 tax year.

Effective Date: 1/1/2011    Employer Size: All  
Effectuated Plans:  Fully Insured  Self Funded  Grandfathered

# FSA, HRA, HSA

- q 1/1/2011: Amend Plan documents. Health FSA, Health Reimbursement Arrangement, Health Savings Accounts no longer reimburse for non-prescription over-the-counter medications.
- q 1/1/2013: Health FSA election limit reduced to \$2500, as adjusted each year for inflation by the IRS
- q No change to Dependent Care FSA limit.

Effective Date: 1/1/2011, 1/1/2013    Employer Size: All  
Effected Plans:  Fully Insured  Self Funded  Grandfathered

# 2012: Plan Disclosure

- q 2/23/2012: Distribute new Standardized Summary Plan Descriptions to plan participants
- q Designed to meet new format and language standards set by the DOL.
  - q 4 pages long, 12 point type
  - q Benefits described using standard phrases
- q Plan design changes need to be communicated to participants 60 days before the change becomes effective.

Effective Date: PYs after 2/23/2012    Employer Size: All  
Effected Plans:  Fully Insured    Self Funded    Grandfathered

# 2012: Research Fee

1/1/2012: Annual fee on insured and self-funded plans to fund the Patient Centered Outcomes Research Trust Fund

q \$1 per plan participant in 2012

q \$2 per plan participant in 2013-2019

Effective Date: 1/1/2012    Employer Size: All  
Effected Plans:  Fully Insured  Self Funded  Grandfathered

# 2013: High Income Additional Medicare Payroll Tax

- q 1/1/2013: Additional Medicare tax on highly compensated employees
- q Generally, employers and employees each pay 1.45% of employee wages (total of 2.9%) for Medicare (HI) taxes.
- q Starting 1/1/2013, an additional 0.9% Medicare tax imposed on the employee on wages in excess of \$200,000.
- q Employer continues to pay 1.45% of wages for the Medicare tax. Only the employee pays the additional Medicare tax. Additional tax applied only to wages over \$200,000. The amount the employee will pay on such excess wages will be 2.35 % (1.45 + .9%). The total Medicare rate (employer and employee portions) for such excess wages will be 3.8% (2.35 + 1.45%).
- q Taxpayers are individually responsible for this tax on wages over \$200,000 (\$250,000 for joint filers, \$125,000 in the case of married taxpayer filing separately). For withholding purposes, employer may disregard any wages received by the employee's spouse.

Effective Date: 1/1/2013    Employer Size: All  
Effected Plans:  Fully Insured    Self Funded    Grandfathered

# 2013: Notice of Exchange

- q 3/1/2013: Provide Notice of Existence of American Health Benefit Exchange to all employees. Notice is also included in all future new hire packets:
  - q Includes a description of the services provided by the Exchange, and how to contact the Exchange to request assistance;
  - q If the employer plan's share of the total costs of benefits is less than 60 percent of such costs (i.e., the plan is not as good as a "bronze" plan), that the employee may be eligible for a premium tax credit and a cost sharing reduction if the employee buys a qualified health plan through the Exchange;
  - q Notifies employees that if the employee buys a qualified health plan through the Exchange, the employee will lose the employer contribution (if any) to any health benefits plan offered by the employer and that all or a portion of such contribution may be excludable from income for Federal income tax purposes

Effective Date: 3/1/2013    Employer Size: All  
Effected Plans:  Fully Insured  Self Funded  Grandfathered

# 2014: Large employers that do not offer coverage...

- q Will be subject to an assessment if any full-time employee enrolls in a state exchange qualified health plan and is granted a premium tax credit or cost-sharing reduction.
- q Assessment is \$166.67/month (\$2000/year) times the number of full-time employees for the month, reduced by 30.
- q After 2014, the \$2,000 amount will be adjusted for inflation.

Effective Date: 1/1/2014    Employer Size: 50+  
Effected Plans:  Fully Insured  Self Funded  Grandfathered

# 2014: Large employers that do offer coverage...

An assessment also imposed on a large employer that offers minimum essential coverage to its full-time employees if a full-time employee enrolls in a state exchange qualified health plan and the employee is granted a premium tax credit or cost-sharing reduction because the employer plan is unaffordable.

- q Employer plan is “unaffordable” if the employee's required contribution exceeds 9.5 percent of the employee's household income.
- q The assessable payment is \$250/month (\$3000/year) times the number of full-time employees with Exchange coverage.
- q Total assessment will not exceed the amount that would be assessed if the employer failed to offer medical coverage.
- q After 2014 the \$3,000 amount will be adjusted for inflation.
- q The assessable payment is avoided if the employer provides a “free choice voucher” to the employee.

Effective Date: 1/1/2014    Employer Size: 50+  
Effected Plans:  Fully Insured  Self Funded  Grandfathered

# 2014: Free Choice Voucher

- q A Free choice voucher must be provided to an employee if:
  - q The employee does not participate in the employer-sponsored plan,
  - q Employee qualifies for affordability exemption but not for premium tax credit
  - q Employee has household income up to 400% of FPL, and
  - q Employee's required contribution for the employer plan is between 8 and 9.8 percent (expect amendment to 9.5) of the employee's household income
- q The amount of the free choice voucher will be equal to the amount that the employer would contribute if the employee were covered under the plan for which the employer pays the largest portion of the plan cost
- q When the employee chooses an Exchange plan, the Exchange credits the amount of the free choice voucher to the monthly premium for the employee's qualified health plan, and the employer pays the credited amount to the exchange.
- q The employee keeps any excess of the voucher amount over the premium amount.

Effective Date: 1/1/2014    Employer Size: 50+  
Effectuated Plans:  Fully Insured  Self Funded  Grandfathered

# 2014: Employer Health Insurance Coverage Reporting to IRS

Large employers (50+) will send an annual health report to IRS by Jan 31 regarding full-time employees:

- q whether the employer offers minimum essential coverage to FT employees
- q length of any waiting period
- q the months during the calendar year for which coverage was available,
- q the monthly premium for the lowest cost option in each of the enrollment tier
- q the employer's share of the total allowed costs of benefits provided under the plan,
- q if the required employee contribution exceeds 8% of wages paid to any employee, the option for which the employer pays the largest portion of the cost of the plan and the portion of the cost paid by the employer in each tier under that option
- q the number of full-time employees for each month during the calendar year,
- q the name, address, and TIN of each full-time employee during the calendar year and the months (if any) during which such employee (and any dependents) were covered under any such health benefits plans

Employers will provide a summary statement of above information to each full-time employee

Effective Date: 1/1/2014    Employer Size: Generally, 50+  
Affected Plans:  Fully Insured  Self Funded  Grandfathered

# Other Requirements

- q 1/1/2014: All pre-existing condition exclusions eliminated
- q Essential Health Benefits Requirement. Requirement for all qualified health benefit plans (except grandfathered ones) to offer at least the essential health benefits package.
- q Wait periods may not exceed 90 days

Effective Date: PYs after 1/1/2014    Employer Size: All  
Effected Plans:  Fully Insured  Self Funded  Grandfathered

# Qualified Health Coverage

Qualified health coverage must:

contain an "essential health benefits" package

- q Insure at least 60% of the actuarial value of covered services, with
- q Annual out-of-pocket limits equal to those that currently apply to high deductible health care plans associated with Health Savings Accounts. (For 2010, this would be \$5,950 for an individual and \$11,900 for a family.)
- q Furthermore, employer-sponsored plans in the small group market may not impose deductibles that exceed \$2,000 for individuals and \$4,000 for families.

Effective Date: 1/1/2014    Employer Size: All  
Effected Plans:  Fully Insured  Self Funded  Grandfathered

# Qualified Health Coverage

- q Essential health benefits include: ambulatory patient services; emergency services; hospitalizations; maternity and newborn care; mental health and substance abuse services; prescription drugs; rehabilitative services and devices; laboratory services; preventative and wellness services; chronic disease management; pediatric services; and other services as defined by the Department of Health and Human Services ("HHS").

Effective Date: 1/1/2014    Employer Size: All  
Effected Plans:  Fully Insured  Self Funded  Grandfathered

# Preventive Care Services

## Preventive Care services include:

- q Evidence-based items or services with a rating of `A' or `B' in the current recommendations of the United States Preventive Services Task Force;
- q Immunizations recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;
- q For infants, children, and adolescents, evidence informed preventive care and screenings provided for in the guidelines supported by the Health Resources and Services Administration.
- q For women, additional preventive care and screenings provided for in guidelines supported by the Health Resources and Services Administration, and recommendations issued by the United States Preventive Service Task Force regarding breast cancer screening, mammography, and prevention.

Effective Date: 1/1/2014    Employer Size: All  
Effected Plans:  Fully Insured  Self Funded     Grandfathered

# Other Requirements

- q Employers who have more than 200 full-time employees are required to automatically enroll new employees in a plan. Automatically enrolled employees must have the opportunity to opt out of the coverage (unclear effective date).

Effective Date: 1/1/2014    Employer Size: 200+  
Affected Plans:  Fully Insured  Self Funded  Grandfathered

# The Horizon

- q 2017: Large Employer Participation in Exchanges. Permission for states to allow large employers to offer coverage to their employees through the exchanges.
- q 1/1/2018 Cadillac tax 40% excise tax on value of coverage in excess of \$10,200 for individual and \$27,500 for family (1/1/2018).

Effective Date: PYs after 1/1/2017    Employer Size: All  
Effectuated Plans:    Fully Insured    Self Funded    Grandfathered