

# Health Care Reform

## PPACA Compliance Overview



**Your New Health Care System**

**Central Hub:** Secretary Health & Human Services

**Key Nodes and Connections:**

- President:** Connected to the Office of Management and Enterprise, Social Security Administration, and the President's Council on Bioethics.
- Congress:** Connected to the House of Representatives and the Senate.
- IRS:** Connected to the Treasury Department and the Social Security Administration.
- Social Security Administration:** Connected to the President, IRS, and the Social Security Trust Funds.
- Medicare:** Connected to the Social Security Administration, CMS, and the Medicare Trust Funds.
- Medicaid:** Connected to the CMS, the Department of Health and Human Services, and the Medicaid Trust Funds.
- CMS:** Connected to Medicare, Medicaid, and the Department of Health and Human Services.
- Patients:** Connected to the Department of Health and Human Services, CMS, and the Private Sector.
- Physicians:** Connected to the Department of Health and Human Services, CMS, and the Private Sector.
- Private Sector:** Connected to the Department of Health and Human Services, CMS, and Patients.

**Legend:**

- New Government:** Orange circles and diamonds.
- Expanded Government:** Yellow circles and diamonds.
- Private:** Blue circles and diamonds.
- New Relationships:** Green circles and diamonds.

**Additional Information:**

**Medicare:** Part A (Hospital Insurance), Part B (Medical Insurance), Part C (Medicare Advantage), Part D (Prescription Drug Coverage).

**Medicaid:** State and Federal Programs, CHIP (Children's Health Insurance Program), SCHIP (State Children's Health Insurance Program).

**Private:** Private Insurance, Self-Insured Plans, Health Savings Accounts (HSAs), Flexible Spending Accounts (FSAs).

**New Relationships:** Health Care Reform, Patient Protection and Affordable Care Act, Health Insurance Exchange, Health Care Reform Act.

Patent Promotion & Affordable Care Act, P.L. 111-148;  
Health Care & Education Reconciliation Act, P.L. 111-362  
Prepared by: Joint Economic Committee, Republican Staff  
Congressman Kevin Brady, Senior House Republican  
Senator Jim Inhofe, Ranking Member

# Agenda

- 1 What Healthcare Reform Is
- 2 How the ACA is Affecting Employers
- 3 What the Employer Delay Means For Your Business
- 4 Factors Affecting Your Premiums
- 5 Covered California

# Patient Protection and Affordability Act (PPACA)

- Signed into law March 2010
- Individual Mandate
- Employer Incentives & Penalties
- Market Reform
- Medi-Cal Expansion

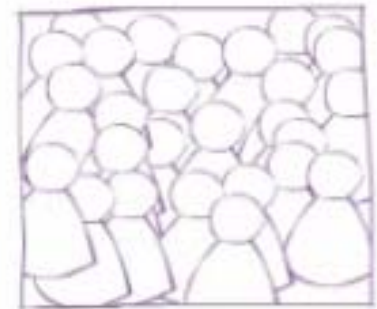
# How the ACA is Affecting Employers

## Small Group Market Changes

- **What is a Small Group?**

- **Under 50 Employees**

- Small Groups are NOT subject to the employer mandate
  - Small groups are also able to buy group insurance through the California SHOP exchange
  - In 2016, small group will be considered 100 or fewer employers



Small employer

# Small Group Market Changes

Changes Take Effect on the Groups Renewal Date in 2014

- **Provisions in 2014**
  - Guaranteed Issue- Groups cannot be denied or charged more because of health status
  - Rating Changes- Groups will now be subject to community rating as opposed to experience rating.
  - Risk adjustment factors (RAF) are going away.



# Small Group Market Changes

Changes Take Effect on the Groups Renewal Date in 2014

- **Provisions in 2014 Continued...**

- Rating Changes

- Age, Zip code, Family Size
    - Family rating: Employee Rate, Spouse Rate, Rates for “covered children” 21-26 years of age & children under 21. Rating caps at the 3.
    - Carriers cannot charge the oldest employee more than 3 times the youngest employee. (3:1 Ratio)

# Small Group Market Changes

Changes Take Effect on the Groups Renewal Date in 2014

- **Provisions in 2014 Continued...**
  - Waiting period cannot exceed 60 days.
  - New taxes & fees – used to fund risk management and pricing stability for the new exchanges and tax credits and subsidies.
    - Patient-Centered Outcomes Research Fee- \$2 per covered person
    - Health Insurance Provider Fee- determined by the market share of the health insurance issuer
    - Transitional Reinsurance Fee- \$63 per covered person



# Small Group Market Changes

Changes Take Effect on the Groups Renewal Date in 2014

- **Provisions in 2014 Continued...**
  - Essential Health Benefits
    - Ambulatory Patient Services
    - Emergency Services
    - Hospitalization
    - Maternity & Newborn Care
    - Mental health & substance use disorder services
    - Prescription drugs
    - Rehabilitative & habilitative service and devices
    - Laboratory service
    - Preventative & wellness services & chronic disease management
    - Pediatric services, including oral & vision care

# Small Group Plan Designs

- Carriers have cut down on the number of plans being offered
  - Ex. Health Net went from 48 plans to 16.
    - Kaiser has 10 HMO & 4 PPO
- Networks have changed slightly
  - Combining networks varies by carriers
    - Plan selection & network will vary by carrier

# Small Group Plan Designs

- Plans are based on the 4 metal levels
  - **Platinum**- 90%- low if any deductibles- OOP is the lowest
  - **Gold**- 80% - Low if any deductibles- OOP is lower, but can still be just as much as the maximum
  - **Silver**- 70% - almost all plans have a deductible- OOP is typically at the maximum
  - **Bronze**- 60%- Highest deductibles and highest OOP maximums

# How the ACA is Affecting Employers

## Employer Obligations- Large Group

- **Employer Penalties for Not Offering Required Coverage**
  - Minimum Essential Coverage
  - Minimum Affordability
  - Delayed until 2015
- Penalty amount for not offering coverage is up to \$2,000 annually for each full-time employee, excluding the first ~~30~~ 80 employees.
- Employers offering coverage, that is unaffordable or does not provide minimum value, will be subject to a fine of up to \$3,000 annually for each full-time employee that receives a subsidy.

# Employer Responsibility

Large employers must offer full-time employees an opportunity to enroll in **minimum essential coverage** under an employer-sponsored plan.

## What is Affordable

- The employee can pay no more than 9.5% of their **total household income** toward the coverage of **themselves**.

## Minimum Value

- Plan must cover at least 60% of medical expenses on average.

# Employer Obligations

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# What the Employer Delay Means for Your Business

## 50-99 Employees

- Delayed until 2016
- Must certify that, during the period beginning February 9, 2014, and ending on the last day of the plan year that begins:
  - Has not reduced the size of its workforce or the overall hours of service of its employees so that it could qualify for this delay, and
  - Has not eliminated or materially reduced any coverage it had in effect on February 9, 2014. A material reduction means that:
    - The employer's contribution is less than what they were contributing towards on February 9, 2014.
    - A change was made to the benefits causing the plan to fall below minimum value
    - The class of employees or dependents eligible has been reduced.

# What the Employer Delay Means for Your Business

## 100+ Employees

- Delayed until 2015
- Offer coverage to 70% of their full-time employees
  - ↑ 95% FT EE's in 2016
- Penalties that any large employer may face doesn't count the first 80 employees
- Beginning in 2016 employers must offer minimum essential coverage to dependent children as well as full-time employees

# What the Employer Delay Means for Your Business

- **Non-Calendar Year Plans**

- Large employers with non-calendar year plans do not have to provide coverage until the start of 2015 plan year, but the plan year effective date applies on if they meet a number of requirements. The most significant of these are:
  - The employer had a non-calendar year group health plan in place on December 27, 2012.
  - The employer has not changed the plan year since December 27, 2012, (this means that most plans that opted for early renewal are not eligible for this delay.)

# What the Employer Delay Means for Your Business

- **Non-Calendar Year Plans Continued...**
  - Affordable, minimum value coverage is offered to most (70%) employees as of the start of the 2015 plan year and most employees were eligible under the rules in place on February 9, 2014.

# Determining if You're a Large Employer

- **Who Gets Counted?**

- **Month Method or the Look-back Method**

- Measurement period
    - Stability period
    - Administrative period

- **Varying rules and exceptions for all employees**

- Common Law employees, seasonal, “bona fide volunteer”, Variable-hours employee

# Factors Affecting Your Health Insurance Premiums

- Various Factors
  - Overall health of your employees
  - Demographics
  - Location
  - Plan Design
  - *Essential Health Benefits*
  - *Market Reform Changes*
  - *Affordable Care Act Taxes & Fees*



# 10 Essential Health Benefits

- Ambulatory Patient Services
- Emergency Services
- Hospitalization
- Laboratory Services
- Maternity & Newborn Care
- Mental Health Service & Addiction Treatment
- Rehabilitative Services
- Pediatric Services
- Prescription Drugs
- Prevention & Wellness Services & Chronic Disease Management

- Community Rating vs. Experience Rating
  - Risk Adjustment Factors (RAF) are going away
- Rating Changes
  - Age, family size, zip code
    - Family rating includes: Employee Rate, Spouse Rate, Rates for “covered children” 21-26 years of age & rates for children under 21 year old. Rating caps at 3.
- Carriers cannot charge the oldest employee more than 3 times the youngest employee (3:1 Ratio)
- California does not charge more for smoking.

**Groups with 2-49  
Employees**

# Small Group Market Reform

# Affordable Care Act- Taxes & Fees

## **Patient Centered Outcomes Research Institute (PCORI) Fee**

- \$2 fee per covered life.
- This fee begins in 2012 and will phase out in 2019.
- Fund comparative effectiveness research & evaluate and compare health outcomes and the clinical effectiveness, risks & benefits of medical treatments/services.
- Plan sponsors are responsible for paying the fee, which is treated like an excise tax by the IRS. (IRS form 720).
- Carriers are rolling this fee into premiums

## **Transitional Reinsurance Fee**

- Funds the insurance for the government exchange.
- Temporary fee 2014-2016.
- \$63 fee per member (\$5.25/mo)
- Insurance carriers will roll this fee into premiums as well.
- Brings in \$25 billion

# Affordable Care Act- Taxes & Fees

## Health Insurance Industry Tax

- Annual, permanent fee beginning in 2014.
- Amount determined by the market share of the health insurance issuer
- Estimated 2.5% of the total premium.
- Fund premium tax subsidies for low-income individuals & families who purchase through the exchanges.

## Risk Adjustment Fee

- Permanent fee beginning in 2014.
- \$1 per member per year
- Rolled into premiums
- Fund the costs of Health and Human Services running the Risk Adjustment Program.
  - Program that redistributes premiums from plans with low-risk populations to plans with high risk populations.

# Covered California



Exchanges



Covered  
California



How to use  
Covered  
California?

- The federal government decided on creating a new mechanism for individuals and small groups to purchase health insurance called Exchanges.
  - The exchange DOES NOT provide the insurance, it just allows you to view and select a plan that suites you and your family's needs.
- Covered California is California's state run exchange. Open enrollment began October 1, 2013 and ends March 31, 2014. Coverage began January 1, 2014.  
[www.coveredCA.com](http://www.coveredCA.com)
- Exchanges are modeled after a travel search engine like Expedia or Travelocity
- You are able to compare plans & costs from multiple carriers

# Things to Think About...

## Employers

- Making sure your company is Compliant.
  - Department of Labor Audits
  - Proper Record Keeping
  - Annual Notices
  - Summary Plan Descriptions
- Will your company be subject to the large group regulations next year?
  - Counting Employees
  - Transitional Rules

## Employees

- Individual Mandate
  - Pay or Play
- Education of Benefits
  - Understanding the process
  - How to best utilize their benefits & make the right decisions for their families



# SGB-NIA Client Experience

- **Monthly updates**
  - Newsletters
  - Webinars
- **Quarterly Updates**
  - Going over the timeline implementation
- **Resources**
  - HR Support- email distribution, HR Insider, ThinkHR
  - Employee Support



## Exchange Notice & Cov

Dear Valued Employee,

On January 1, 2014, the Individual Shared Responsibility Mandate, most people will be required to have health insurance. Individuals that currently have coverage chosen to opt out of your employer's plan known as Covered California.

**PURCHASING COVERAGE THROUGH**

For employees who currently do not have 2013 and end March 31, 2014. Coverage applying online, by mail, or in person.

All individuals who meet basic eligibility criteria are eligible for coverage.



## INDIVIDUAL SHARED RESPONSIBILITY

## Potential Fines for 50+ Groups

Employee Retirement & Income Security Act of 1974 (ERISA)	
✓ Reporting & Disclosure	Up to \$100,000
✓ Administration & Enforcement	Up to \$30,000
✓ Continuation Coverage	Up to \$110 per day per violation
✓ Consolidated Omnibus Reconciliation Act (COBRA)	Up to \$110 per day per violation
✓ Health Insurance Portability & Accountability Act (HIPAA)	\$100 to \$50,000 or more per violation
✓ Newborns' Mothers' Health Protection Act (NMHPA)	\$110 per day per violation
✓ Women's Health & Cancer Rights Act	\$100-\$200 per day per violation
Mandated Coverage Requirements	
✓ Eligibility	\$100 per day per violation
✓ Mental Health Parity Act	\$100- \$200 per day per violation
✓ Qualified Medical Child Support Order (QMCSO)	Potential legal action/ benefits, interest & attorney fees
Health Care Reform	
✓ Patient Protection and Affordable Care Act	\$2,000 per person, minus the first 30 employees
Other Federal Laws	
✓ Mental Health Parity and Addiction Equity Act	\$100 per day per violation
✓ Michelle's Law	\$100 per day per violation
✓ TRICARE	\$5,000 per violation
Employment Laws Affecting Group Health Plans	
✓ Age Discrimination in Employment Act (ADEA)	Front & Back Pay
✓ Americans with Disabilities Act (ADA)	Front & Back Pay—Up to \$50,000
✓ Family & Medical Leave Act (FMLA)	Liable for a monetary value up to 12 weeks of wages
✓ Genetic Information Nondiscrimination Act (GINA)	\$100 per day per violation
✓ Pregnancy Discrimination Act (PDA)	Front & Back Pay—Up to \$50,000
✓ Title VII of the Civil Rights Act	Front & Back Pay—Up to \$50,000
✓ Uniformed Services Employment & Reemployment Act (USERRA)	DOL Investigation Possible

On January 1, 2014, the Individual Shared Responsibility Mandate requires most individuals to obtain health insurance. This mandate is an essential coverage requirement for individuals with a group health plan.

Thus the taxpayer's civil penalty is 3x the amount of the penalty to avoid.

Insured plan, self-insured plan, and MEC. MEC does not provide dental care, workers' compensation, or disability benefits.

may claim the individual exemption if the parent is not the individual.

Individuals cannot be exempted from the obligation to pay for health insurance if the parent is not the individual.

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www.sgbnia.com • Phone: 818.316.0999 • Fax: 818.316.0990 • LIC# 0782266



# QUESTIONS?

[HCR@sghbnia.com](mailto:HCR@sghbnia.com)

**Natalie Withers**

Compliance Director | Benefits Consultant

818.319.0999

[nwithers@sghbnia.com](mailto:nwithers@sghbnia.com)