Health Care Reform – 2013 Update

Presented by Rachel Cutler Shim
# Agenda – Health Care Reform in 2013 and Beyond

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## Agenda – Health Care Reform

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<th>Year</th>
<th>Item</th>
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# Agenda – Health Care Reform

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<thead>
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<th>2014 (cont.)</th>
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<tr>
<td>Wellness Program Changes</td>
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2012– Requirements You Might Have Missed
2012 – Requirements You Might Have Missed

- Effective first day of the plan year beginning on or after August 1, 2012
- Requires group health plans to provide coverage for preventive care for women with no cost sharing
- Full list established by Institute of Medicine includes:
  - Mammograms
  - Screenings for cervical cancer
  - Prenatal care
  - Contraception
    - Exception exits for certain religious institutions
- Grandfathered plans are not required to comply
2012 – Requirements You Might Have Missed

W-2 Reporting Requirement

- Forms W-2 issued in January 2013 for the 2012 calendar year must report the cost of employer-provided health care coverage
  - Amounts are reported in Box 12
  - Amount reported includes amount paid by employer and employee
- Not required to issue a Form W-2 for employees or retirees to whom the employer would not otherwise provide a Form W-2
- Not required to report if employer does not sponsor the group health plans
  - Union-sponsored coverage
- Informational only – does not impact taxability of coverage
2012 – Requirements You Might Have Missed

<table>
<thead>
<tr>
<th>Summary of Benefits and Coverage (SBC)</th>
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<tbody>
<tr>
<td>■ Effective Date - First day of the open enrollment period that begins on or after September 23, 2012</td>
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<tr>
<td>■ Required to be distributed:</td>
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<td>■ During open enrollment</td>
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<tr>
<td>▪ Current coverage option</td>
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<tr>
<td>▪ Default elections – 30 days before beginning of plan year</td>
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<tr>
<td>■ To employees upon initial eligibility for group health plan coverage</td>
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<td>■ Within 90 days of special enrollment</td>
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<tr>
<td>■ Upon request</td>
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<tr>
<td>■ Insured plans may rely on SBC issued by insurance company</td>
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<tr>
<td>■ Distribution rules for dependents and spouses</td>
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<tr>
<td>■ May be able to rely on mailing to participant</td>
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</tbody>
</table>
2012 – Requirements You Might Have Missed

Summary of Benefits and Coverage

- HHS has provided a model available at [http://cciio.cms.gov/resources/other/index.html#sbcug](http://cciio.cms.gov/resources/other/index.html#sbcug)
  - Modification of model is not permitted
- Employer also required to provide 60-day advance notice of modifications to information set forth in the SBC
  - Contrast to SMM provided after the effective date of a change
- Foreign language requirements
- Exemption applies for excepted benefits
  - Stand-alone vision and dental plans
  - Health Care Flexible Spending Account
2013 – Upcoming Requirements

Health Care FSA Contribution Limit

- Health care FSAs must impose a limit on contributions of $2,500
- Effective as of the first day of the plan year beginning on or after January 1, 2013
  - Limit applies on a plan-year basis
  - Example – Plan with a July 1 through June 30 plan year will apply the limit based on the fiscal year
- Plan amendments must be adopted prior to December 31, 2014
- Limit does not apply to employer contributions made to a Health Care FSA or to premium conversion contributions
- IRS is considering whether to modify the use-it-or-lose-it rule
2013 – Upcoming Requirements

Patient-Centered Outcome Research Fee

- Fee will be collected to fund research evaluating and comparing health outcomes, and the clinical effectiveness of two or more medical treatments and/or services
- Self-Insured group health plans and insurance companies are required to pay the fee
  - $1 per covered life per year, for plan years ending after Sept. 30, 2012
  - Adjusts to $2 per covered life for plan years ending after Oct. 1, 2013, and before Sept. 30, 2014
  - For plan years ending after Sept. 30, 2014, adjusted based on projected per-capita amount of national health expenditures
  - Will not apply to plan years ending after Sept. 30, 2019
### 2013 – Upcoming Requirements

**Patient-Centered Outcome Research Fee**

- Fee reported and paid on Form 720
  - Due by July 31 of the following calendar year
- For self-insured plans, guidance provides three methods for determining number of covered lives:
  - Actual Count
  - Snap Shot Method
  - Form 5500 Method
- Fee will not apply to:
  - Stand-alone dental and vision plans
  - Employee assistance programs
  - Most health care FSAs and HRAs
2013 – Upcoming Requirements

Reinsurance Fee

- ACA requires states to establish reinsurance program
- Federal government will maintain a reinsurance program for states that do not establish one
- Federal reinsurance program will be funded with fees collected from:
  - Insurers
    - Expected to pass along fees to employers in the form of higher premiums
  - Third Party Administrators of Self Insured Plans
    - Expected to pass along fees directly to employers or in the form of higher administrative fees
  - Fees estimated at between $60 to $80 per participant (employees, spouses and dependents) for 2014
- Fee applies in 2014, 2015 and 2016
Employers must provide employees an exchange coverage notice

- Requirement effective March 1, 2013
- Notice must include:
  - Basic information about the Exchanges
  - Description of value of employer coverage and possible subsidies available through an Exchange
  - Explanation that enrolling in exchange = loss of employer contribution

- A model notice has not been issued
  - Only 19 states have passed legislation to establish a state-run exchange
  - We suspect (and informal comments from administration confirm) this requirement will be delayed
2013 – Upcoming Requirements

The following individuals will be required to pay an additional .9% Medicare tax:

- Applies to income and compensation earned on or after January 1, 2013 that is in excess of the income threshold.
- Employers must withhold the additional tax from wages it pays to an individual in excess of $200,000 in a calendar year, without regard to the individual’s filing status.

<table>
<thead>
<tr>
<th>Filing Status</th>
<th>Income Threshold</th>
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<tbody>
<tr>
<td>Single</td>
<td>$200,000</td>
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<tr>
<td>Married Filing Jointly</td>
<td>$250,000</td>
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<tr>
<td>Married Filing Single</td>
<td>$125,000</td>
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</tbody>
</table>
2013 – Upcoming Requirements

Elimination of Medicare Part D Deduction

- Medicare Modernization Act of 2003 established the Medicare Part D Subsidy
  - 28% subsidy designed to offset the cost of prescription drug benefits provided to retirees
- Originally subsidy was tax free and also deductible from corporate income taxes
  - Tax incentives were designed to promote retiree coverage
- Effective January 1, 2013, the Medicare Part D Subsidy will continue to be tax free, but not deductible
  - As a result, many employers have had to take a significant charge against earnings
  - Expected that many employers will stop providing retiree drug benefits
2014 Requirements – Get Ready Now

**Shared Responsibility Payment**

- A Shared Responsibility Payment will be due only for an employer that employs more than:
  - 50 full-time employees, or
  - 50 full-time equivalent employees

- Full-time employee – works more than 30 hours a week

- Full-time equivalent employees – two employees working 15 hours a week equal one full-time employee

  - Employers must average their number of employees across the months in the year to see whether they meet the large employer threshold

  - Special transition relief is available in 2014 for employers that are close to the threshold
2014 Requirements – Get Ready Now

Shared Responsibility Payment

**Employer Without Coverage** – An employer that does not offer coverage or that offers coverage to less than 95% of its full-time employees will be required to pay a shared responsibility payment if at least one employee receives a premium tax credit to pay for coverage on an Exchange.

- After 2014, 95% of full-time employees and dependents

**Employer That Provides Coverage** – An employer that offers coverage to more than 95% of its full-time employees will be required to pay a shared responsibility payment if at least one full-time employee forgoes employer coverage and receives a premium tax credit to help pay for coverage on an Exchange.

- After 2014, 95% of full-time employees and dependents
2014 Requirements – Get Ready Now

Shared Responsibility Payment

- **Calculated on a Monthly Basis**
- **Employer Without Coverage** –
  - Penalty is the product of the number of the employer’s full-time employees over 30 multiplied by one-twelfth of $2,000 (or $166.67).
  - Example – An employer with 1000 employees offers coverage to (makes eligible) 500 employees (50% of employees). One employee who is not eligible for coverage purchases coverage through an Exchange and is eligible for assistance. The employer will be charged a shared responsibility payment of $1,940,000.
- **Employer With Coverage** –
  - Penalty is the lesser of the product of (i) the number of employees who receive assistance multiplied by one-twelfth of $3,000, or (ii) the number of full-time employees (not counting the first 30 employees) multiplied by one-twelfth of $2,000.
  - Example – An employer with 1000 employees offers coverage (makes eligible) to 1000 employees. Fifty employees forgo employer coverage, and enroll in an Exchange and are eligible for assistance. The employer owes a shared responsibility payment of $150,000.
2014 Requirements – Get Ready Now

Shared Responsibility Payment

- Premium Tax Credit - Premium tax credits generally are available for employees who:
  - Are between 100% and 400% of the federal poverty level and enroll in coverage through an Exchange
  - Are not eligible for coverage through a government-sponsored program like Medicaid or CHIP
  - Are not eligible for coverage offered by an employer, or are eligible only for employer coverage that is unaffordable or that does not provide minimum value
2014 Requirements – Get Ready Now

Shared Responsibility Payment

- Coverage is unaffordable if:
  - An employee’s share of the premium for employer-provided coverage costs more than 9.5% of the employee’s annual household income
    - Multiple coverage options – use lowest-cost option
  - Affordability Safe Harbors
    - Cost of coverage does not exceed 9.5% of the employee’s wages paid by the employer, as reported in Box 1 of Form W-2, or
    - Coverage satisfies either of two other design-based affordability safe harbors
## 2014 Requirements – Get Ready Now

### Shared Responsibility Payment

- Coverage will provide the minimum value if the plan provides benefits for 60% of the total allowed cost of benefits that are expected to be incurred under the plan.
  - A calculator will be made available by the IRS and the Department of Health & Human Services (HHS).
  - Employer will input certain information about the plan, such as deductibles and co-pays, and get a determination as to whether the plan provides minimum value.
- The IRS will contact employers to inform them when a Shared Responsibility Payment is due, and provide an opportunity to respond.
2014 Requirements – Get Ready Now

Affordable Insurance Exchange (Marketplace)

- Effective as of January 1, 2014, a State or Federal Exchange (Marketplace) will be available for individuals and small businesses.
- Currently 19 states and the District of Columbia have been approved to run all or part of an Affordable Insurance Exchange or State Partnership Exchange.
  - Does not include Pennsylvania or New Jersey.
- States that do not elect to run an Affordable Insurance Exchange will participate in a Federal Exchange.
2014 Requirements – Get Ready Now

Affordable Insurance Exchange (Marketplace)

- Exchanges will contract with insurers to provide health insurance for small employers and individuals, and will be responsible for:
  - Certifying health plans as "Qualified Health Plans"
  - Establishing a rating system
  - Providing standardized information and assistance
  - Reporting certain information to the federal government
- Beginning in 2014, employers with fewer than 50 employees will be able to buy coverage through an Exchange
- Beginning in 2017, large employers will be able to buy coverage through an Exchange if permitted by the state
2014 Requirements – Get Ready Now

Individual Mandate

- Found constitutional by the Supreme Court as a tax
- Effective January 1, 2014, individuals must maintain minimum essential coverage or pay a penalty
- Penalty –
  - For 2014, the penalty is $95 for each uninsured adult in household or 1% of household income over filing threshold
  - For 2015, the penalty increases to $325 or 2% of household income over filing threshold
  - For 2016 and after, the penalty increases to $695 or 2.5% of household income over filing threshold
Individual Mandate

- Following individuals not subject to the mandate:
  - Religious objectors
  - Undocumented immigrants
  - Prisoners
  - Indian tribe members
  - Individuals with an income below the threshold required to file a tax return (in 2010, $9,350 for an individual and $18,700 for a family)
  - Individuals who are required to pay more than 8% of their income to receive health insurance after any employer contributions or premium tax credits
2014 Requirements – Get Ready Now

Individual Mandate

- If you have one of the following types of health care coverage, no penalty will apply:
  - Medicare
  - Medicaid
  - TRICARE
  - Veteran's Health Program
  - Employer Plan
    - Not required to provide coverage for essential health benefits
  - Individual coverage that is at least at the bronze level
    - Includes coverage purchased through an Affordable Insurance Exchange
    - Coverage provided through an Exchange must provide essential health benefits
  - Grandfathered Plan
2014 Requirements – Get Ready Now

Reporting Requirements

- Effective January 1, 2014, insurers and self-insured employers will have to file a return that includes:
  - The employer’s name, address and employer identification number
  - A certification as to whether the employer offers its full-time employees (and dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan
  - The length of any waiting period
  - The months that coverage was available
  - Monthly premiums for the lowest-cost option
  - The employer plan’s share of covered health care expenses
  - The number of full-time employees
  - The name, address, and tax identification number of each full-time employee
- In addition, each employee included in the report must receive a written statement showing (i) the name, address and phone number of the person required to make the return, and (ii) the information shown on the return for that employee
2014 Requirements – Get Ready Now

Additional Insurance Market Reforms

- Dependent coverage to age 26 for any covered employee’s child
- No annual dollar limits permitted
- No pre-existing condition limits permitted
- Provider nondiscrimination prohibited
- Must cover routine medical costs of clinical trial participants
- No waiting period over 90 days
- Deductible Limits $2,000/$4,000
2014 Requirements – Get Ready Now

Additional Insurance Market Reforms

- Automatic Enrollment - Employers with more than 200 employees that are subject to the FLSA and that offer health coverage will be required to enroll full-time employees automatically
  - Employees must receive notice of automatic enrollment requirement
  - Employees will then need to opt out, or they will be covered
  - Employees who are automatically enrolled must be provided opportunity to drop coverage
- Effective Date could be as early as January 1, 2014, but actual date will depend on when the DOL issues guidance
2014 Requirements – Get Ready Now

Additional Insurance Market Reforms

- Automatic Enrollment - Employers should:
  - Determine if the requirement will apply to them
  - Develop projections for likely cost increases
  - Consider what changes will be necessary in the enrollment process and change in election process
  - Consider a communication strategy
- State Wage and Hour Laws that conflict will be preempted
2014 Requirements – Get Ready Now

Additional Insurance Market Reforms

- Wellness Programs
  - Effective January 1, 2014 permitted incentive increases to 30% of total (employer and employee) health care cost
  - Codifies additional wellness program requirements, with some modifications
    - Must be voluntary and nondiscriminatory – not a subterfuge for discriminating based on health status,
    - Opportunity to qualify for the reward at least once a year,
    - There must be alternatives for obtaining the reward, and
    - Notice requirements.

- Employers should:
  - Determine compliance with current requirements and
  - Whether they will use the new 30-percent reduction.
Questions

Please feel free to contact me if you have any questions:

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Thank you for your time!