



Presented By:

HAMMETT HEALTH

INSURANCE SERVICES

WELCOME

- Structure Today
 - 40 Minute Presentation.
 - Defining Small vs. Large Business.
 - What Has Happened...What Will Be Happening in 2014 and beyond.
 - Extended Q & A.
- Goal
 - Walk away with valuable resources for your clients and have a better understanding of the Affordable Care Act.

AN INTRODUCTION

- The Patient Protection and Affordable Care Act (PPACA), commonly referred as Affordable Care Act (ACA).
- Passed by Congress and Signed by Obama (March 2010).
- Upheld by Supreme Court (June 2012).



THE INTENT OF THE ACA

- To extend coverage to millions of uninsured Americans.
 - In California, 5.6 million uninsured
 - 2.6 million may qualify for subsidies
- Implement measures that will...
 - lower cost to those that qualify for a subsidy
 - improve system efficiency
 - eliminate rescission and denial of coverage due to Pre-X.

THE PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2010

- Grandfathered Health Plans
- Small Business Tax Credits
- Dependents can stay on Parents Health Plans to 26 (off at 26th birthday)
- Free Preventative Coverage
- No More Annual Maximums
- Eliminated (Section 105(h)) –
 Non- Discrimination aka "management Carve-outs"
- Wellness Grants for Small Business(Never Funded)
- Tanning Tax



- Medical Loss Ratio 85/15 & 80/20
- Funding for State Exchanges
- HSA Penalty goes from 10% up to 20%
- Over the Counter prescriptions (Rx) no longer tax deductible on HSA's, HRA's or FSA's

- W-2 Reporting for Companies with 250+ W-2's
- Prescription Drug Company Fees
 - \$2.8B in 2012 goes up to \$4.1B by 2018
- Summary of Benefits and Coverage (SBC's)
 - September 2012 mandatory for all plans

- FSA (Flexible Spending Account)
 Limit
 - Max FSA reduced from \$5,000 to \$2,500
- Medicare Taxes (Earners of \$200K/\$250K +)
 - 0.9% Payroll (1.45% up to 2.35%)
 - 3.8% on Passive/Investment Income
- Medical Device Tax
 - +2.3%



This is when we see most of the *Major provisions* go into effect

KEY PROVISIONS

- Individual Mandate
 - Everyone must have a health plan or face a fine/tax
- Employer Mandate -DELAYED
 - Employers with more than 50 Full Time Equivalents must offer coverage.
- Shared Responsibility Payment -DELAYED
 - \$2,000 per employee (minus the first 30)
 - \$3,000 per employee that receives a subsidy
- Guarantee Issue
 - Insurers cannot discriminate based on health any longer
- Medicaid Expansion
 - From 100% of FPL up to 133% (\$14,856 for single in 2013)

KEY PROVISIONS

- Subsidies
 - Only available in individual exchange
- Modified Community Rating (3:1)
 - Currently a 5:1 spread
 - Individual Age Bands
 - "Dependent Level Rating"
- Health Insurance Company Taxes (HIT)
 - 2014: \$8B; 2015/16: \$11.3B; '17: \$13.9B; '18: \$14.3
- Minimum Essential Coverage
 - 10 Categories Including Pediatric Dental & Vision
- Maximum Waiting Periods (90 days)*
 - **Not** "1st of the month following 90 days...

Health Insurance Tax:

MAKING HEALTH CARE MORE EXPENSIVE



What Is the Health Insurance Tax?

The health care reform law imposes a massive new sales tax on health insurance which will increase the cost of coverage for individuals, small businesses, and public program beneficiaries with private insurance. The tax begins at \$8 billion in 2014 and rises to \$14.3 billion

in 2018, increasing annually thereafter based on premium growth. The Joint Committee on Taxation projects that between 2013 and 2022 the new tax will total \$101.7 billion.

The Health Insurance Tax Is Larger than All the Other Industry Specific **Taxes Combined**

Prescription Drug Tax

Medical Device Tax

Health Insurance Tax

How It Impacts the Economy

Reduce future private sector employment by 125,000

59% of jobs created would have been at small employers

Reduce potential sales by at least \$18 billion

50% of lost sales would have been made by small employers

How It Impacts You²

IF YOU PURCHASE COVERAGE >>

ON YOUR OWN

THROUGH A SMALL EMPLOYER THROUGH A LARGE EMPLOYER

Individual

Average increase in premiums of \$2,150 over 10 years.

Average increase in premiums of \$2,760 over 10 years.

Average increase in premiums of \$2,610 over 10 years.

Family



Average increase in premiums of \$5,080 over 10 years.

Average increase in premiums of \$6,830 over 10 years.

Average increase in premiums of \$7,130 over 10 years.

If you have a Medicare Advantage plan, the tax could cost you on average \$3,590 more in higher premiums and reduced benefits over 10 years.



Medicaid health plan costs could increase \$1,530 over 10 years, putting pressure on already strained state budgets, which could lead to decreased benefits and potentially create



WWW.HEALTHCARE.GOV

- Cost: \$634,000,000
 - 6.5x higher than budgeted
- Facebook- \$600M
- Twitter- \$360M
- LinkedIn- \$200M







So Now What...?



DEFINE YOURSELF

- Individuals: No Employer Plan
- Small Group: employers with 1 to 50 W-2 full-time employees
 - Many states this is up to 100
- Large Group: employers with more than 50 or 100 full-time employees

INDIVIDUALS

- Individual Mandate (Jan 2014): all US Citizens must have health insurance or pay a TAX PENALTY.
- **Annual Open Enrollment** November 15th to February 7th each year.
 - Must have application completed by the 15th of the prior month in order to get a 1st of the month effective date
- Guaranteed Availability of Coverage. As of 2014, no one can be denied due to Pre-existing health conditions!
- Enrollment closed, unless individual has a qualifying event SEP (Special Enroll Period)

INDIVIDUALS

Special Enrollment Period – (SEP)

- > You **get married** or enter into a domestic partnership.
- > You have or adopt a child, or you place a child in adoption or in a foster home.
- > You change where you permanently live, and you gain access to new Covered California health insurance plans. This includes moving to California from another state. This also applies to individuals who are released from jail or prison.
- > You **lose your health coverage**. For example, you are no longer eligible for Medi-Cal, you lose health coverage through your job, or you have exhausted your COBRA continuation coverage. (Note: Not paying your COBRA premium does not qualify you for special enrollment.)
- > Your **income changes** so much that you become newly eligible or ineligible for help paying for your insurance. For example, if you are already getting help paying for your insurance premium, and your income goes down, you may be able to get extra help. This might reduce the amount you have to pay when you see the doctor.
- > You become a citizen, national or lawfully present individual. This event applies only to people who were not previously citizens, nationals or lawfully present. This event does not apply to nationals and lawfully present immigrants who become U.S. citizens.
- > If you are a member of a federally recognized **American Indian or Alaska Native** tribe, you may enroll in health insurance or change your health insurance plan once a month even if the open-enrollment period is over.
- > Lose group coverage.

INDIVIDUAL EXCHANGE

Changes in plans-

- New plans that fit minimum standards- Termination of old plans by carriers, no grandfathered plans
- New networks for many plans need to check doctors
- New Rx coverage

Benefits Levels

- Platinum, Gold, Silver, Bronze, Catastrophic
- Subsidies for Lower-Income (400% FPL)
 - Medicaid: Under \$15,415 (Free)
 - *Single:* Under \$44,680
 - *Family (4)*: Under \$92,200
 - 2012 FPL = \$11,170

PENALTIES 2014 & BEYOND

· Individuals

- 2014: \$95/adult and \$47.50/child or 1%
- 2015: \$325 or 2%
- 2016+:\$695 or 2.5%
- Small Group: No Penalty
- Large Group: No Play? Then you pay either a \$2K or a \$3K per employee penalty (more on this later)

Delayed until 2015 ER's w/100+ ee's

• 2/10/14: HHS Announces *Mandate delay* until 2016 for employers with *50-99 Employees*

SMALL GROUP

DEFINED: 1-50 W-2 Employees

SMALL GROUP

Health Insurance Exchanges – SHOP

• <u>S</u>mall Business <u>H</u>ealth <u>O</u>ptions <u>P</u>rogram: employers can purchase coverage through the SHOP Exchange

• Open Enrollment: Employers may enroll all year long

• Effective Date: 1st of any month

'ADEQUATE' COVERAGE

3 Pillars of Compliance

- 1. Minimum Essential Coverage (MEC)
 - 10 Essential Health Benefits
- 2. Minimum Actuarial Value (MV)
 - · 60%, 70%, 80%, 90%
- 3. Affordability
 - No more than 9.5% of Employees W-2Income



ESSENTIAL HEALTH BENEFITS

- Plans will be required to meet minimum standards, like...
 - Must cover EHBs including 10 categories of care
 - 1. ER
 - 2. Ambulatory
 - 3. Hospitalization
 - 4. Lab
 - 5. Maternity & Newborn Care
 - 6. Pediatric Oral and Vision
 - 7. RX
 - 8. Mental Health
 - 9. Preventive
 - 10. Rehab



'AFFORDABILITY' DEFINED

F	Federal Poverty Limit (FPL)	2012/2013 FPL	Hourly Rate	W2 Income	Premiums per month @ 9.5% FPL
		1 Unit	Based on 40 hrs/wk (2080)		Self-Only
	100%	\$11,170	Medicaid		\$88/mo
	133%	\$14,856	Medicaid	9.5%	\$117/mo
	150%	\$16,755	\$8.05/hr	9.5%	\$132/mo
	200%	\$22,340	\$10.47/hr	9.5%	\$177/m o
1	250%	\$27,925	\$13.09/hr	9.5%	\$221/mo
1	300%	\$33,510	\$15.71/hr	9.5%	\$265/mo
	350%	\$39,095	\$18.32/hr	9.5%	\$309/mo
A	400%	\$44,680	\$20.94/hr	9.5%	\$353/mo

"AFFORDABILITY" SAFE HARBORS

1. W-2 Safe Harbor

✓ Lowest cost plan cannot charge the employee any more than 9.5% of their W-2 wages (BOX 1) for EMPLOYEE ONLY coverage

2. Rate of Pay Safe Harbor

- ✓ Hourly: Employee Only cost for the cheapest plan offered cannot exceed
 9.5% of hourly pay on the 1st day of the coverage period multiplied by
 130 hours
- ✓ Salary: Employee Only cost for the cheapest plan offered cannot exceed 9.5% of employees monthly salary amount.
 - ✓ Employers are allowed to use any reasonable method for converting payroll periods into monthly salary

3. Federal Poverty Line (FPL) Safe Harbor

✓ Employee Only cost for the cheapest plan offered cannot exceed 9.5% of the *FPL for the applicable calendar year*, divided by 12.

LARGE GROUP

DEFINED: 51+ Full Time <u>Equivalent</u> Employees

NOTE: The Employer Shared Responsibility Payment only applies to <u>100+ in 2015</u>. 2016 50-99 FTE groups will have to comply with the mandate to offer coverage.

LARGE GROUP

- 1. Determine your Full Time Equivalents (FTE)s to confirm that you are Large Group.
- 2. If you have 100+ FTEs, then in **2015**, you may be subject to a penalty, if
 - **Fail to offer coverage** to Full-Time Employees and their dependents or... (\$2k per EE)
 - Offer coverage that does not meet the law's affordability standards, minimum value standards and 1 full-time employee receives a subsidy. (\$3k per EE)

4 Types of Employees

- ► Full Time Employee 30 Hours/wk (1,560/yr)
- ➤ Part Time Employee 29 or less hours worked/week
- ➤ Variable Hour Employee:
 - > Unable to determine if this employee is reasonable expected to work 30 or more hours/week
 - ➤ New Employee that works 30+ can still be considered "Variable" if employment is expected to be of limited duration. (Retail worker during Christmas)
- >Seasonal Employee vs Seasonal Worker
 - > Does not work for more than 120 consecutive days
 - >On 2/10/14 changed to 6 months (for some)

SEASONAL 'WORKER' VS 'EMPLOYEE'

(Source: IRS Final Regulations on Employer Shared Responsibility 2/10/14)

- Seasonal **workers** are workers who perform labor or services on a seasonal basis, as defined by the Secretary of Labor (*less than 120 consecutive days*), and include retail workers employed exclusively during holiday seasons.
 - For this purpose, employers may apply a reasonable, good faith interpretation of the term "seasonal worker."
- Seasonal *employee* means an employee who is hired into a position for which the customary *annual employment is six months or less* and for which the period of employment begins each calendar year in approximately the same part of the year, such as summer or winter.



DETERMINING FULL TIME EQUIVALENT STATUS (FTE's)

- Acme Company has **30** Full-Time employees (work 30/hrs/week) and **28** Part-Timers (work 20/hrs/week).
- Are they Small or Large in January?
 - Full-Time Employees: 30
 - Part-Time: 28 x (20hx4.5w)=2,520/120= 21
 - \circ FTE = 30 + 21 = 51
 - **Answer:** <u>Large</u> Group because they have **51 Full- Time Equivalents**. They are subject to the Employer Mandate, Pay or Play.

FTE - PERIODS: LOOK BACKS

- Did your employee count vary greatly in 2013?
- Employers can determine if they are Large Group based on a period of **3 to 6 consecutive months in 2013**.
- Email <u>bill@hammetthealth.com</u> for Manual FTE Calculator.
- Seasonal Employee Exception: No more than 6 months

CONTROL GROUPS

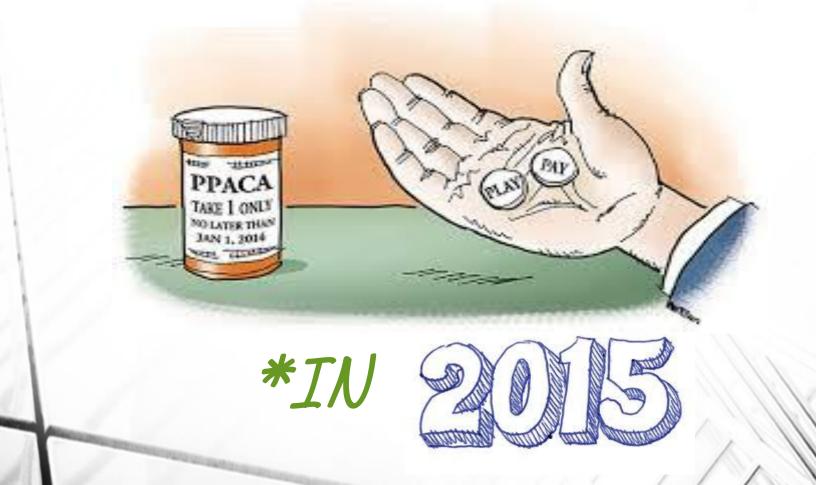
Multiple companies under single ownership must add all FTEs from *all businesses* together to determine if the employer is a large group employer.

(See 401k rules for details)



So, You are a Large Group

You must Play...or Pay*



EXCISE TAX/PENALTIES

POSTPONED

• Penalty is **not** tax deductible.

If at least one employee gets subsidy...

- **No Coverage:** pay (# Full-Time employees employed during the year **80***) x \$2,000
- "Inadequate" Coverage: pay the lesser of \$3,000 per employee who qualifies for a subsidy OR \$2,000 per FT employee.

*2/10/14 changed from 30 to 80



WHO MUST YOU OFFER BENEFITS TO?...In 2015

- All Full Time Employees (30+ Hours per Week)
- All Employees who qualify after 'Measurement Period'



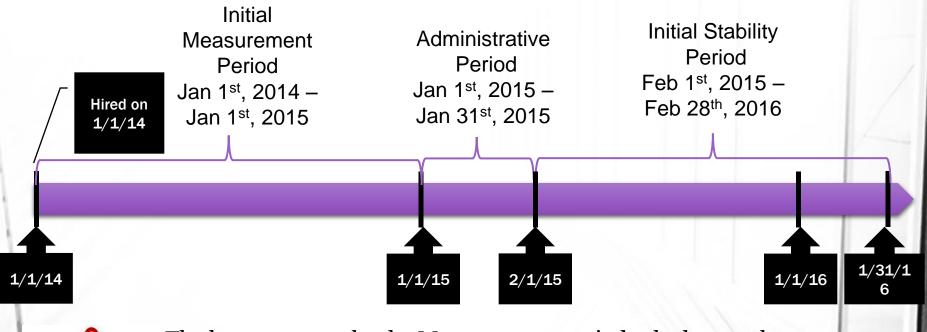
MEASUREMENT PERIODS...IN 2015

To determine who is eligible, the ACA allows for very specific look back periods.

- Measurement Period: 3-12 Months
 - Period is determined by the employer
 - If employee does not work an average of 30 hours/week during this period, they are not eligible
- Administrative Period: Up to 90 days
 - This is when you would apply a waiting period and enroll the employee who was deemed eligible
- Stability Period: No shorter than 6 months and must be at least as long as Measurement Period
 - Employee must be enrolled during this time, regardless of their hours worked

MEASUREMENT PERIOD...ILLUSTRATED

Assumption: Employer uses 12-month "initial measurement period" for variable hour employees employed on or after Jan. 1, 2014. "Variable-hour" employees are those whom the firm cannot reasonably determine on their start date will average at least 30 hours per week.





The longer you make the Measurement period...the longer the Stability period must be. Administrative period is shorter because the eligible employee must be insured within 13 months of hire date.



FULL-TIME STATUS SAFE HARBOR

Employers may use Measurement and Stability periods that differ in length or in their starting/ending dates for the following categories of employees:

- ✓ Collectively & Non-Collectively bargained employees
- ✓ Salaried vs. Hourly employees
- ✓ Employees of different entities
- ✓ Employees located in different states

DEPENDENTS & THE 70% RULE

Dependents:

• Coverage must be offered to the employees dependent children. Offering to a spouse is specifically not required.

The 70% Rule:

• An applicable large employer will be treated as offering coverage to ALL full-time employees if it offers coverage to all but 30% (or if greater, five) of its full-time employees.

Auto Enroll

LG

Delayed

> 200 Employees must automatically enroll employees (FLSA)



NEW DELAY

Pay or Play

LG

1/1/2015

> 50 FTE
Employers offer at least 1
Affordable and MV Plan or...
PAY A TAX PENALTY



EHBs

SG

1/1/2014

All plans must include the 10 Essential Health Benefits.



Exchange Open Enrollment

SG

1/1/2014

2 New Marketplaces Created

1. Individual Exchange

2. SHOP Exchange

Period: Oct 2013 to Mar 2014

FSAs

BOTH 1/1/2013

Medical Flexible Spending Accounts (FSAs) are limited to a max of \$2,500 per year.

Grandfather PlanNotification

BOTH

9/23/2010

Plan materials must include a notice if that plan is grandfathered.





IRS Reporting

LG

2014

Large Employers must report plan information and some employee info to IRS.



Medicare Part A Tax on the Rich

LG

1/1/2013

Tax Increases for Employee's FICA by 0.9%

Single: \$200,000 Married: \$250,000

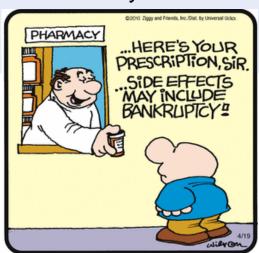


Medicare Part D Subsidies not deductible

LG

1/1/2013

employers can't deduct the cost of Rx drugs to the extent reimbursed by Fed Subsidy.



Non Discrimination and Coverage

LG DELAYED

Employer's plan can't discriminate in favor of highly compensated.





BOTH

10/1/13

Employers must notify employees about options available at Covered Ca (state exchange).

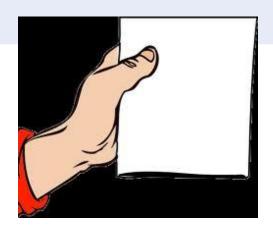


SBCs and Notice of Changes

BOTH

9/23/12

Summary of Benefit Coverage must be supplied to each employee initially and within 60 days of any changes.



PCORI Fee

LG

9/30/2012

Insurance Carrier or Plan Sponsor will pay \$1 x's average # of lives first year. (\$2 in following years)



Plan Deductibles & OOP Max

SG

1/1/2014

Plan deductibles must be less than \$2,000 (Single) OOP Max < \$6,250





SG

2010

For small employers with average wages below \$50,000 – possible tax credit available.

In 2014: ONLY in Exchange.



W-2 Reporting

LG

1/1/2012

Large Employers who issue 250 or more W-2s, must report value of health coverage.



Waiting Periods

LG

1/1/2014

90 Days per ACA ...But...California 60 Day Limitation on Waiting Periods

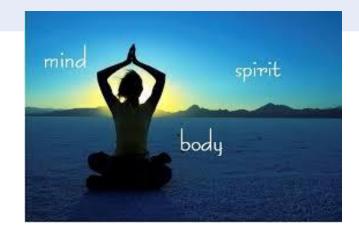


Wellness

LG

2011

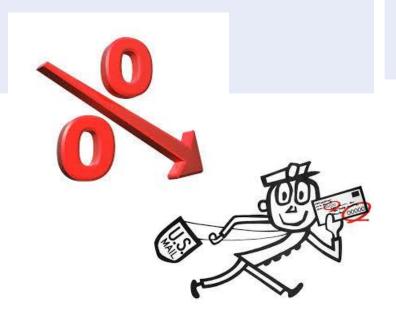
Employers can apply for federal grants to assist with the implementation of wellness programs. (Never Funded)



Community Rating & Zip Codes

BOTH 1/1/2014

No RAFs! No more than 3:1 Ratio for oldest. Zip Codes?



Dependent Children to 26th Birthday

BOTH 2011

An employee's adult child may stay on as a dependent until Age 26.



Limited Medical Expense Deduction

LG

Now

Itemized medical expense threshold increased from 7.5% to 10% of AGI. Harder to get the deduction.

Unearned Income Tax Increase on High- Income Earners

LG

Now

3.8% tax MAGI over threshold

Latest Developments



UPCOMING LEGISLATION TO KEEP AN EYE ON

CA Senate Bill 1446 – Transitional Relief aka "GrandMothering"

- ✓ Allows for "early renewals" to continue through '16 meaning pre-ACA Group health plans can stay in force up to December 2017
- ✓ Politics
 - ✓ Jerry Brown & DOI
 - ✓ Democrats
- ✓ Business Interest
- ✓ Insurance Companies
- ✓ Fallout



UPCOMING LEGISLATION TO KEEP AN EYE ON

Senate Bill 1034 – CA Waiting period to 90 days

- ✓ The ACA says max waiting period to 90 days...BUT...in CA
 we made it 60 days.
 - ✓ This bill would remove that language and we would default to Federal Rules
- ✓ Monning Original Author is the sponsor of the amendment
- ✓ The Big Question: will insurers allow this to happen retroactively?
 - ✓ Likely not.



DEPARTMENT OF LABOR AUDITS

- > The Audits have already started to arrive
- > 730,000 benefits complaints in US last year
- > Almost every employer is NOT in compliance
- > Must have up to date SPD's, SBC's, Plan Documents, 5500 Forms, COBRA/USERRA/HIPAA documents, proof that documents were delivered to employees...
- > DOL gives employers 10 days to answer
- > FINES: \$110 per day per plan participant
- > Example: 10 employees, 2 months out of compliance = \$67,100

DEPARTMENT OF LABOR AUDITS (CONT.)

- > The ACA gave DOL \$\$\$ to hire 1,803 new Auditors with a budgeted goal of recouping \$1.17B from Employers
- > Are you using the new COBRA notice?
- > Have you updated your Summary Plan Description (SPD) and Plan Documents?
- > Do you know what a Summary of Material Modification (SMM) is?
- > What triggers an audit?
 - ✓ Employee Complaints
 - ✓ 5500 Targeting
 - ✓ Random
 - ✓ News Stories and Press Tips

INTERESTING NEW TAXES

\$4.5

\$34.2

\$3.8

\$317.7

\$24.0

\$29.1

\$101.7

\$55.0

\$106.0

\$111.0

2011

2011

Plan years

after 9/30/12

2013

2013

2013

2014

2014

2015

2018

Provision	Year	10 Year Revenue Estimates 2013- 2022 (\$billions)
"Tanning Tax" - Imposes 10% excise tax for indoor tanning services	2010	\$1.5
Restricts FSA, HSA, HRA definition of itemized deduction for medical expenses (tax-preferred account dollars can	2011	\$4.0

only purchase OTC items with prescription)

comparative effectiveness research

\$200,000/\$250,000 (not indexed)

Increases penalty to 20% for non-health withdrawals from HSA's

Limits FSA contributions to \$2,500, indexed to inflation after 2013

"Health Insurance Tax" - Imposes annual fee on health insurance companies

not provide prescribed coverage. (Mandate delayed for employers with 50-99 EE's until '16)

"Individual Mandate" - Requires individuals to obtain health insurance

"Cadillac Tax" - Imposes 40% excise tax on high-cost health plans

Imposes annual fee on branded drug manufacturers and importers of branded drugs

Imposes fee on health insurance & employer plans (including fully-insured and self-insured plans) to fund

increases Medicare payroll tax by 0.9% on earned income in excess of \$200,000/\$250,000 (not indexed)

Imposes 3.8% tax on unearned investment income for taxpayers with adjusted gross income (AGI) in excess of

"Medical Device Tax" - imposes 2.3% excise tax on manufacturers and importers of certain medical devices

"Employer Mandate/Free Rider" Penalty - Fines employers with 50 or more full time equivalent employees who do

Fallout From Delay's

- Is it Constitutional to apply delay's?
 - Article II, Section 3 of the Constitution
 - Section 1513(d)
- More individuals obtaining subsidies
- Continued Uncertainty
- Insurers must determine next years rates now...and they don't even have the enrollment information.
- The "3 R's" and the funny games insurers play...



The New Marketplace

- Talk to your Agent
 - Strategize NOW
- Talk to your Agent
- Early Renewal- bottleneck in December!
 - Talk to your Agent
 - Group Health vs. Group of Individuals



TAKEAWAYS

- √ Grandfathered Status
 - Are you operating in a 'Carve-Out' Health Plan
- √ W-2 Requirements
 - 250 W-2's + only...for now...
- **✓ Employer Mandate**
 - Play or Pay?
- ✓ Summary of Benefits & Coverages (SBC's)
 - Plans Renewing September 2012 and after
 - Fully insured will see info from insurers
 - Self-Insured will need to create
- **✓ Wellness Programs**
 - It's time to consider an investment in the health of your workforce
- ✓ Prepare for additional administrative burdens
 - The law is still being written as are your responsibilities

TAKEAWAYS (CONT.)

- **✓ With Legislative change comes strategy change**
 - Who's your resource?
- **✓** Best practices Benefits
 - Employee benefit specialists steeped in HC Reform strategy will be critical
- **✓ Reform will add cost to premium**
 - Efficiency with service providers will be key
 - Think outside the box (HRA's, Wrap Plans)
 - Workers Comp, Liability, 401k, Payroll, HR Management
- ✓ Communication
 - Control the reform message with your employees
 - Show them the worth of their benefits
 - Engage them in the insurance process
- ✓ Employer Education Periodic Workshops

QUESTIONS?

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