

**Strategies for Navigating the Complexities  
of Health Care Reform for Employers**

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of Health Care Reform for Employers**

PANELISTS:



**Andrea D. Masters**  
Senior Employee  
Benefits Consultant  
Potomac Basin Group  
Associates




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PANELISTS:



**John Deem**  
Vice President of  
Business Development  
NFP/Potomac Basin Group




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## The Big Picture before 1/1/14

Total US Population: 320,000,000

Private Health Insurance Market

- Individual Market: 20,000,000
- Group Market: 160,000,000

Public Programs: 90,000,000

Uninsured Population: 50,000,000

## 2014 Individual Mandate

### Individual Mandate – Starts in 2014

- Beginning January 1, 2014, the ACA requires most Americans to be insured or pay a penalty (i.e., tax!).
- To make coverage more affordable, the government is subsidizing the cost of coverage for certain individuals.
- To make coverage more accessible, public exchanges will be established so people can easily shop for health insurance.
- Beginning January 1, 2014, all U.S. residents are required to maintain "minimum essential coverage".

### Individual Mandate: Amount of the Tax

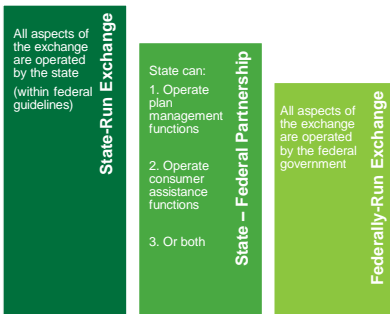
- The annual tax for not maintaining "minimum essential coverage" will be the greater of
  - a flat dollar amount per individual; or
  - a percentage of the household taxable income.

*For any dependent under the age 18, the tax is half of the individual amount.*

	GREATER OF	OR
2014	1% household taxable income	\$95 for up to 3 family members
2015	2% household taxable income	\$325 for up to 3 family members
2016	2.5% household taxable income	\$695 for up to 3 family members

### 2014 Health Insurance Public Exchanges (Marketplaces)

### State Options



### Health Insurance Exchanges (Marketplaces)

- Types of Public Exchanges
  - State-Based Exchanges (17)
    - CA, CO, CT, **DC**, HI, ID, KY, **MD**, MA, MN, NV, NM, NY, OR, RI, VT, WA
  - Partnership Exchanges (7)
    - AR, **DE**, IL, IA, MI, NH, **WV**
  - Federally Facilitated Exchanges (27)
    - AL, AK, AZ, FL, GA, IN, KS, LA, ME, MO, MS, MT, NC, NE, NJ, ND, OH, OK, **PA**, SC, SD, TN, TX, UT, **VA**, WI, WY
- Federal Data Service Hub
- Private Exchanges – More Alternatives and Flexibility

### Individual and SHOP Exchange

- Individual Exchange
  - Verify citizenship or immigration status
  - Verify eligibility for Medicaid, CHIP, and Medicare
  - Only place for premium tax credits and cost sharing subsidies
  - May not pay for coverage on pre-tax basis
- SHOP Exchange
  - SHOP = Small Business Health Options Program
  - In 2014 employer groups with up to 50 FTEs
  - In 2016 employer groups with up to 100 FTEs
  - Only place for the federal Small Business Tax Credit

### Essential Health Benefits

- |                                     |                                              |
|-------------------------------------|----------------------------------------------|
| • Ambulatory Patient Services       | • Prescription Drugs                         |
| • Hospitalization                   | • Laboratory Services                        |
| • Emergency Services                | • Rehabilitative and Habilitative Services   |
| • Mental Health and Substance Abuse | • Preventative and Wellness                  |
| • Maternity and Newborn Services    | • Pediatric Services including Oral & Vision |

### Marketplace “Metal Level” Plans

METAL LEVEL	ACTUARIAL VALUE	MONTHLY PREMIUM COST	OUT-OF-POCKET COST	NOTES
Platinum	90%	\$\$\$\$	\$	Not available in all states
Gold	80%	\$\$\$	\$	Equal to most employer-based plans
Silver	70%	\$	\$\$\$	The benchmark plan tied to tax credits
Bronze	60%	\$	\$\$\$\$	Appealing to healthy individuals
Catastrophic	50%	Lowest Premium	Highest Out-of-Pocket	Individuals under 30 years of age

### Premiums on the Public Exchanges

- Premiums will vary according to the following:
  - Age – 3:1 Ratio
  - Tobacco Status – 50% Surcharge
  - Family Size
  - Geographic Area
- No Medical Underwriting on the Public Exchanges
- No Pre-Existing Conditions
- Guaranteed Issue and Guaranteed Renewability
- Member Level Billing



### Member Level Billing: Example One

Employee	Status	Age	Tobacco	Rate
David	EE Only	21	No	\$200
Sue	EE Only	42	No	\$400
Mary	EE Only	63	No	\$600
Frank	EE Only	42	Yes	\$600

### Member Level Billing: Example Two

Employee	Member	Status	Age	Tobacco	Rate	Total Rate
Tim	Tim	Employee	42	No	\$400	
Tim	Carmen	Spouse	21	No	\$200	\$600
Linda	Linda	Employee	42	No	\$400	
Linda	Jack	Spouse	63	Yes	\$900	\$1,300



### 2014 Premium Tax Credits and Cost Sharing Subsidies

### Federal Premium Tax Credits

Eligibility for federal premium tax credits:

- Household income between **100% and 400%** of federal poverty  
**And**
- NOT eligible for qualified employer coverage that is:
  - Affordable:** Employee's cost for employer sponsored coverage is less than or equal to **9.5%** of household income
  - Minimum Value:** Plan pays at least **60%** of allowed costs for essential benefits

*May not be eligible for Medicaid, Medicare or TRICARE*

## Premium Tax Credits - Contributions

FPL - 2013 (Percentages)	FPL (Individual Dollars)	Annual Premium Contribution (% of Income)	Annual Premium Contribution (Dollars)
100 – 150%	\$11,490 - \$17,235	2 - 4%	\$229.80 - \$689.40
150 – 200%	\$17,235 - \$22,980	4 - 6.3%	\$689.40 - \$1,447.74
200 – 250%	\$22,980 - \$28,725	6.3 – 8.05%	\$1,447.74 - \$2,312.36
250 – 300%	\$28,725 - \$34,470	8.05 – 9.5%	\$2,312.36 - \$3,274.65
300 – 400%	\$34,470 - \$45,960	9.5%	\$3,274.65 - \$4,366.20

## Considerations

- Some employers are considering excluding spouses from the group plan to preserve their eligibility for government assistance.
- The Employer Mandate effective in 2015 does not require employers to cover spouses.
- Government subsidized coverage such as Medicaid or CHIP may be available for children.



John  
Deem



Andrea D.  
Masters

## Employer Mandate

### Are you an “Applicable Large Employer”?

- The Employer Mandate under the ACA only applies to employers with 50 or more Full Time Equivalents (FTEs). How do we calculate FTEs?
  - Start with the total number of W-2 employees who work 30 or more hours per week. Set this number aside.
  - Next, add up all the hours worked in a month by all the W-2 employees who work less than 30 hours per week. Divide the number by 120.
  - Add the two numbers together.
  - Repeat for each month in the calendar year, and average the months together.
  - If you are over 50 FTEs for no more than 4 months due to seasonality in your operations, then you are not an “Applicable Large Employer”.
  - Measure number of FTEs in 2014 to determine if you are subject to the Employer Mandate in 2015.

### Employer Mandate – Original Rules

- Employers with 50 or more FTEs must offer qualified and affordable health insurance to the full time employees or pay a “shared responsibility” penalty.
- Full time is defined as 30 or more hours per week.
- Penalty A = \$2,000 times the number of full time employees minus 30.
  - Employer must offer coverage to “substantially all” of the full time employees.
  - Substantially all defined as at least 95% of the full time employees.
  - In order to trigger the penalty, at least one full time employee must go to the public exchange and purchase subsidized health insurance (i.e., receive a federal tax credit).
- Penalty B = \$3,000 times each full time employee who is not offered “Qualified” and “Affordable” coverage and purchases subsidized health insurance.
  - Qualified coverage is defined as the plan must cover at least 60% of the cost.
  - Affordable coverage is defined as the employee can be asked to pay no more than 9.5% of his or her household income towards the single only coverage for the least expensive plan that meets minimum value.
- The Control Group rules under IRC Section 414 apply.
- The Employer Mandate penalties are not tax deductible!

### Employer Mandate – Recent Announcement

- On 2/10/14, the Treasury announced “final regulations”
- For employers with between 50 and 99 FTEs, the Employer Mandate will begin in 2016
- For employers with 100 or more FTEs in 2015:
  - “Substantially all” under Penalty A is lowered to 70%
  - The “A Penalty” will not apply to the first 80 full time employees
- Volunteers: such as Firefighters and EMS personnel
- Seasonal employees: new 6 month rule
- Educational employees
- Transition rule for non-calendar year plans
- Rehired employees

## Determining Affordable Coverage

- Coverage is considered “affordable” if the employee’s contribution for single coverage does not exceed 9.5% of the employee’s wages. The regulations provide three safe harbors that employers can use to determine if employee coverage is affordable:
  - 9.5% of an employee’s Box 1 W-2 wages for the year
  - 9.5% of an employee’s monthly wages determined by multiplying the employee’s hourly rate by 130 hours per month
  - 9.5% of the Federal Poverty Level for a single individual

### Affordable Coverage

Employers must offer coverage to children of an employee, but there is no penalty if the dependent coverage is considered unaffordable. Moreover, there is no requirement to offer coverage to a spouse of an employee. Affordability is based on “single only” tier of the least expensive qualifying coverage offered by the employer.

## Other Considerations: Notice of Exchange, Waiting Periods, & New Taxes

## ACA Exchange Notice Requirements

➤ **ALL employers must provide their employees with the Exchange Notice.**

- Employers must provide the initial Exchange Notice to employees by 10/1/13.
- Employers must provide the Exchange Notice whether or not group health insurance coverage is offered to the employees.
- Employers must provide the Exchange Notice to all W-2 employees—both full-time and part-time.
- After 10/1/13, employers must provide the Exchange Notice to all W-2 employees (full-time and part-time) within 14 days of the date of hire.



## Where Can I Find The Exchange Notice?

➤ The DOL has posted a model Exchange Notice on its website:

<http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>

**NOTE: The Exchange Notice is a fillable form that you can complete online and then save or print!**

## 90 Day Waiting Period

- The ACA prohibits a waiting period that is longer than 90 days from date of hire.
- Employers that use the first of the month following 90 days must amend their practice as of the first plan year on or after January 1, 2014 to one of the following:
  - First of the month following 30 days or 60 days
  - A flat 90 day waiting period
  - CA - maximum new hire waiting period of 60 days
- May use an hours worked requirement prior to eligibility, up to 1,200 hours, but Employer Mandate penalties will apply after 90 days.



## Summary of New ACA Taxes

	PCORI FEE	Health Insurance Tax	Reinsurance Fee
What is it?	Funds the Patient Centered Outcomes Research Institute	Funds premium tax credits, among other things	Provides reinsurance for the individual market through non-profit reinsurers
When?	Annually, for 7 years First due by July 31, 2013 for play years ending in between Oct. 1, 2012 and Dec. 31, 2012.	Annually beginning by Sept. 30, 2014	Annual fee due by Jan. 15, 2015.  Payable for three years.
How much?	\$1 per covered life payments in 2013, \$2 per covered life payments in 2014, indexed thereafter.	Estimated 2014 cost to employer: 2 – 3% of annual premium. After 2014, 3 – 4% of annual premium.	Estimated at \$63 per covered life per year in 2014, decreasing thereafter.
To Whom?	Treasury	Treasury	HHS
Deductible?	Tax-deductible	Not tax-deductible	Tax-deductible

### Odds and Ends

- Additional Medicare taxes under the ACA
  - Earned Income – Additional 0.9% over \$200,000
  - Net Investment Income – Additional 3.8% over threshold amount
- Small Business Tax Credit
- Grandfathered Plans
- Fully Insured versus Self-Funded Group Contracts
- Cadillac Tax in 2018
- Expansion of Medicaid
- PCORI Fee for HRAs
- Dependents to Age 26
- FSA Maximum of \$2,500 – Carryover versus Grace Period



### Other Considerations

- What will happen to COBRA?
  - The ACA does not change COBRA/state continuation laws.
  - There will be less need for COBRA/state continuation in the future.
- How about ERISA, HIPAA, TEFRA, FMLA, USERRA?
  - These federal laws are still in place.
- What will happen to Health Savings Accounts?
  - The ACA does not change IRS regulations related to HSAs.
- How about legislative changes to the ACA?
  - Political climate in Washington is not favorable.
- Will the ACA "bend the cost curve"?

### Final Thoughts

- Why offer group health insurance?
  - Recruiting & retention
  - Happier, healthier employees
  - Competing for talent against large employers
  - Tax advantages to offering group benefits
  - Convenience of payroll deductions for employees
  - Employer can't pay for individual coverage on a tax free basis

## Questions

### Andrea Masters

Senior Employee Benefits Consultant  
NFP/Potomac Basin Group

4740 Corridor Place Suite B  
Beltsville, Maryland 20705

301.458.2153 | 1.800.311.1031

[andrea.masters@potomacbasin.com](mailto:andrea.masters@potomacbasin.com)

### John Deem, CEBS

VP of Business Development  
NFP/Potomac Basin Group

4740 Corridor Place Suite B  
Beltsville, Maryland 20705

301.458.2171 | 1.800.311.1031

[john.deem@potomacbasin.com](mailto:john.deem@potomacbasin.com)



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