AFFORDABLE CARE ACT:
Basics, Myths & Facts
Healthcare and Public Sector Workers Conference
July 2015
Patient Protection and Affordable Care Act

• AKA:
  – PPACA
  – ACA
  – Affordable Care Act
  – Obamacare
  – Healthcare Reform

• Passed March 23, 2010:

• The House of Representatives has voted at least 54 times to repeal the Act and the Supreme Court has heard 3 major challenges
What’s already been Implemented?

• No annual dollar limits on Essential Health Benefits
• No Lifetime Maximums
• No Rescission of coverage (Retroactive Cancellation)
• Eligibility to age 26 for adult children
• No pre-existing condition limitations
• Closing of the Rx “donut-hole” for Medicare-eligible (by 2020)
• Disclose value of coverage on W-2 Forms
• Summary of Benefits and Coverage (SBCs)
• Individual Mandate
• Limitation on Employer-imposed waiting periods – 90 day max
• Medical Loss Ratio ($1.1b in 2012)
• Rate review
  – Insurance companies cant charge women more for health insurance anymore
HOW MUCH MORE DO WOMEN PAY for HEALTH INSURANCE?

0-25% more  
26-50% more  
51-75% more  
76-100% more  
gender discrimination prohibited  
data not available

WITHOUT THE AFFORDABLE CARE ACT  
WITH THE AFFORDABLE CARE ACT (starting in 2014)

Based on data for what 25-year-old women and men are charged for premiums. SOURCE: NATIONAL WOMEN’S LAW CENTER
New or Non-grandfathered Plans ONLY

– You don’t need a referral for an OBGYN or Pediatrician

– Emergency Services MUST be covered equally In Network and Out of Network

– Preventive Care with no cost-sharing
  • Adult Preventive Care
  • Pediatric Preventive Care
  • Expanded Women’s Preventive Care

– Third Party Appeal for Denied Claims

– Cost Sharing Limitations to In-Network coverage only
  • OOP Max (Medical & Rx Combined) for 2015 cannot exceed:
    – Single - $6,600 / Family - $13,200 (MUST include deductible, coinsurance and both medical and drug copays)

Grandfathered plans are those in existence on March 23, 2010 and have not had significant changes in cost sharing. Not all ACA provisions apply.
What’s a non-grandfathered plan?

A plan *will lose* its grandfathered status by making any of the following changes (even if the changes are pursuant to a collective bargaining agreement):

- Elimination of all or substantially all benefits to diagnose or treat a particular condition, or elimination of a necessary element to diagnose or treat a condition;
- Any increase in a co-insurance percentage;
- An increase in the deductibles or out-of-pocket limits in effect on March 23, 2010 greater than medical inflation plus 15%;
- An increase to a co-payment in effect on March 23, 2010 that is more than the greater of: (a) $5 increased by medical inflation, or (b) medical inflation plus 15%;
- Changes in annual limits
- A decrease in employer contribution rate in effect on March 23, 2010 by more than 5%; or
- Entering into a new policy, certificate or contract of insurance (as opposed to the renewal of an existing arrangement) after March 23, 2010.
Retiree-only Plans/ Excepted Benefits

• Retiree-only plans and “excepted benefits” are exempt from all of the health reform coverage and cost sharing standards, including the bans on lifetime and annual dollar limits.

• Retiree-only plans include
  – (a) plans that have documentation, financing and operations independent of any active-employee benefits, and
  – (b) a single ERISA plan for active employee and retiree benefits if the retiree benefit component operates separately (i.e., the retiree benefits are financially separate from the active benefits and retirees have different benefits and contributions than active employees).

• “Excepted Benefits” include stand-alone Dental, Vision, Accident or Disability benefits, Long-term Care, Medigap plans and programs like AFLAC.
Health Insurance Marketplaces
“The Exchanges”

- [www.healthcare.gov](http://www.healthcare.gov) - the website works!!!!!

- State-based health insurance exchanges
  - Marketplace for individual coverage and coverage for Small Businesses
  - Plans are regulated and musty offer comprehensive coverage

- Open Enrollment –
  - Annually for general public.
  - Individual 60 day period when losing other coverage (Qualifying Event).

- Enrollment (as of 2/11/15)
  - 11.4m on Exchange
  - 4.8m on Expanded Medicaid programs
# Health Insurance Exchanges

## Sample Metallic Plans

<table>
<thead>
<tr>
<th></th>
<th>Bronze</th>
<th>Silver</th>
<th>Gold</th>
<th>Platinum</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Deductible</strong></td>
<td>$4,000</td>
<td>$1,500</td>
<td>$1,000</td>
<td>$500</td>
</tr>
<tr>
<td><strong>Out Of Pocket Max</strong></td>
<td>$6,500</td>
<td>$6,500</td>
<td>$2,500</td>
<td>$1,000</td>
</tr>
<tr>
<td><strong>Coinsurance</strong></td>
<td>80%</td>
<td>80%</td>
<td>80%</td>
<td>90%</td>
</tr>
<tr>
<td><strong>Preventive Care</strong></td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td><strong>ER Copay</strong></td>
<td>$100</td>
<td>$100</td>
<td>$100</td>
<td>$100</td>
</tr>
<tr>
<td><strong>Actuarial Value</strong></td>
<td>60%</td>
<td>70%</td>
<td>80%</td>
<td>90%</td>
</tr>
</tbody>
</table>
Premium Assistance / Tax Subsidy

• Available to individuals with *household* income between 100% and 400% of Federal Poverty Level

• Designed so individuals pay premiums between 2% and 9.5% of income
  • Cannot be eligible for any other coverage, including Medicare, Medicaid, CHIP, Tricare, VA or Employer sponsored
  • Individual must be resident, citizen or legally documented, not incarcerated and cannot be claimed as a dependent on anyone’s tax return
### Federal Poverty Level - 2015

**Annual**

<table>
<thead>
<tr>
<th>Household Size</th>
<th>100%</th>
<th>200%</th>
<th>300%</th>
<th>400%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$11,770</td>
<td>$23,540</td>
<td>$35,310</td>
<td>$47,080</td>
</tr>
<tr>
<td>2</td>
<td>$15,930</td>
<td>$31,860</td>
<td>$47,790</td>
<td>$63,720</td>
</tr>
<tr>
<td>3</td>
<td>$20,090</td>
<td>$40,180</td>
<td>$60,270</td>
<td>$80,360</td>
</tr>
<tr>
<td>4</td>
<td>$24,250</td>
<td>$48,500</td>
<td>$72,750</td>
<td>$97,000</td>
</tr>
<tr>
<td>5</td>
<td>$28,410</td>
<td>$56,820</td>
<td>$85,230</td>
<td>$113,640</td>
</tr>
</tbody>
</table>

**Based on 2080 hours**

<table>
<thead>
<tr>
<th>Household Size</th>
<th>100%</th>
<th>200%</th>
<th>300%</th>
<th>400%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$5.66</td>
<td>$11.32</td>
<td>$16.98</td>
<td>$22.63</td>
</tr>
<tr>
<td>2</td>
<td>$7.66</td>
<td>$15.32</td>
<td>$22.98</td>
<td>$30.63</td>
</tr>
<tr>
<td>3</td>
<td>$9.66</td>
<td>$19.32</td>
<td>$28.98</td>
<td>$38.63</td>
</tr>
<tr>
<td>4</td>
<td>$11.66</td>
<td>$23.32</td>
<td>$34.98</td>
<td>$46.63</td>
</tr>
<tr>
<td>5</td>
<td>$13.66</td>
<td>$27.32</td>
<td>$40.98</td>
<td>$54.63</td>
</tr>
</tbody>
</table>
Individual Mandate

- For most people, if you don’t have health insurance; there is a tax penalty for beginning in 2014.
  - 2014
    - $95 per person or 1% of modified adjusted gross income (MAGI)
  - 2015
    - $325 per person or 2% of modified adjusted gross income (MAGI)
  - 2016
    - $695 per person or 2.5% of modified adjusted gross income (MAGI)

- The maximum annual fixed-dollar tax per family is three times the individual tax. In 2014, this will be:
  - 3 x $95, or $285; in 2016 this will be 3 x $695, or $2085.

- The maximum annual tax per child under age 18 is 50% of the individual tax. The—percentage of income tax cannot exceed the national average premium cost for bronze level coverage. After 2016, the tax amounts will be increased by a specified cost-of-living adjustment.
What’s on the Horizon

2017

• Medicaid provider payments based on quality not volume
• Optional State expansion of Exchanges to Large Employers

2018

Excise tax aka “Cadillac Tax”

✓ 40% tax on amounts over thresholds
✓ Actives - $10,200 Single/$27,500 Family
✓ Retirees/High-risk Actives - $11,850 Single/$30,950 Family
✓ Paid by Insurance Carrier or the Employer as the Plan Sponsor for a self-funded plan – NOT INDIVIDUALS
✓ Use healthcare cost data on W-2 as a barometer
Myths and Facts

• Employer Responsibility
• Employer Penalties
• Taxes and Fees
• Has Obamacare caused health insurance rates to skyrocket?
• Reservation of Rights language
MYTHS: ACA Employer Requirements

• Employers tell us that the Affordable Care Act requires them to change their plans making them more expensive
Employer Responsibility Provisions

What is required from Employers?

– Less than 50 employees – exempt
  • (96% of all Employers according to the Treasury Department)
– 50-99 employees/FTEs – delayed until 1/1/16
– 100+ employees/FTEs – effective 1/1/15

Employer must offer coverage to:

  * 70% of FT Employees in 2015; and
  * 95% of FT Employees in 2016 and beyond

Control group rules apply to determine “employer size”
Employer Responsibility Provisions

• Who qualifies as a “large” employer?
  – 50 or more Full-time and/or Full-time Equivalents (FTEs) during the previous calendar year
  – FTE Calculation = \[
  \frac{\text{All Hours Worked/month}}{120}\]

If FTE calculation takes employees above 50, the employer can then see if the Seasonal Employee Exception Applies

If only 50+ employees for 120 days or less and employees in excess of 50 were seasonal, then NOT a large employer
Employer Responsibility

• What kind of coverage does an Employer have to offer?
  – The Employer must offer a plan to Full Time Employees that is both Affordable and meets Minimum Value under the Affordable Care Act of face a penalty

• Full time Employee – consistently works 30 or more hours a week

• Affordable – Single coverage is less than 9.5% of W-2 income

• Minimum value – Plan’s actuarial value is at least 60%
Employer Responsibility

• IRS filing requirements under Sections
  – 6055
    • For Insurance carriers and self-insured Employers to report information to the IRS
  – and 6056
    • For applicable large employers to report their Full Time Employees, whether coverage is offered, what level of coverage is offered.

• These were made voluntary in 2015 but will be required filings in 2016 – may be a good source of information for us.
MYTHS: ACA Employer Penalties

• Employers tell us that the ACA Penalties are forcing them to cut our health insurance or other compensation.
Employer Penalty Amounts

**NO COVERAGE**

$2,120 per year for each full-time employee in excess of the first 30 full-time employees.

**NON-COMPLIANT COVERAGE**

Lesser of 1) $2,120 annually or 2) $250/month for each FT employee enrolled in subsidized coverage on the Health Insurance Exchange.

Penalties are subject to annual inflation increases
Compliant Coverage

1. Affordable – less than 9.5% of the household W-2 wages for Individual coverage; AND

2. Meet the minimum value – plan covers 60% actuarial value of expenses; AND

3. Not one (1) employee receives subsidized Exchange coverage

TIPS
✓ Affordability definition under ACA doesn’t extend to cost of Family coverage.
✓ Definition of Dependent doesn’t include “spouse”
✓ No subsidies available to Dependents on Exchange if Employer coverage is “unaffordable” from a pocket-book standpoint
MYTH: Obamacare Taxes and Fees

• Employers claim they need to reduce our benefits because of ACA Taxes and Fees
ACA Taxes and Fees

- **PCORI (Patient Centered Outcomes research Institute)**
  - 2013 $1 PMPY (per member per year)
  - 2014 and beyond - $2 PMPY

- **Transitional Reinsurance Fee**
  - 2014-2016 $64 PMPY

- **Annual Fee on Health Insurers**
  - 2%-3% Tax

- **Large Employer Penalty**
  - $2,120 per full time employee (minus 30) IF no coverage is provided

- **Excise Tax on High Cost health insurance plans**
  - 2018 Paid by Health Insurance Carriers
  - 40% of amount ABOVE the threshold ONLY
MYTHS: ACA will make health care costs skyrocket

Employers: Obamacare will increase health care costs

According to a recent survey, six out of ten employers expect Obamacare to increase their health care costs, and one-third of those believe the increases will be 5 percent or higher. Nearly one-third of those surveyed didn’t know how the law would affect their costs.

Don’t know: 29%
No increase: 10%

## ACA – Cost Impact

<table>
<thead>
<tr>
<th>Year</th>
<th>Medical</th>
<th></th>
<th>Rx</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Projected</td>
<td></td>
<td>Projected</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Actual</td>
<td></td>
<td>Actual</td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>10.6%</td>
<td></td>
<td>9.1%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>9.5%</td>
<td></td>
<td>7.9%</td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>10.8%</td>
<td></td>
<td>9.1%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>7.6%</td>
<td></td>
<td>6.4%</td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>11.0%</td>
<td></td>
<td>9.2%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>7.5%</td>
<td></td>
<td>5.0%</td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>10.0%</td>
<td></td>
<td>7.2%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>7.3%</td>
<td></td>
<td>5.5%</td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>8.8%</td>
<td></td>
<td>6.4%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5.7%</td>
<td></td>
<td>5.5%</td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>7.9%</td>
<td></td>
<td>6.3%</td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>7.8%</td>
<td></td>
<td>8.6%</td>
<td></td>
</tr>
</tbody>
</table>

Source: Segal Co. Health Plan Cost Trend Surveys (2009-2015)  PPO/Rx for Actives/PreMedicare Retirees
MYTH: Employers need Reservation of Rights language due to ACA

• Employer insists they need this proposed language:

• “In the event there are any additional health care costs caused by any taxes due to the Affordable Care Act or other federal legislation; the Employer, in its sole discretion, may make changes to the Plan to avoid such additional costs during the Term of this Agreement”
Bargaining

• Reservation of Rights language – ACA is not an open door
  – DO NOT allow an Employer to talk you into giving up your right to bargain over your healthcare

• Employers do NOT have the unilateral right to terminate coverage
  – Health Insurance coverage is still a mandatory subject of bargaining.
  – ACA is a FLOOR (just like Minimum Wage laws)

• The Affordable Care Act does not legally require Employers to do anything; only pay a “sin tax” if they choose not to offer coverage.
  – They generally cannot unilaterally implement changes that violate our Agreements under the guise of legal compliance with the ACA

• CBA or Insurance Agreement still determines WHEN and WHO is eligible for coverage

• Where there is more than one plan option BEWARE– Employers may want to decrease the employee contribution for the lowest value plan to meet affordability
  ✓ Results in unaffordability of higher value options (adverse selection)
  ✓ Paired with unaffordable Dependent coverage
  ✓ Affordability test is measured for the lowest wage worker’s premium contributions for Individual coverage under the lowest plan option.
Bargaining

• When Exchanges might be better than Employer Sponsored group coverage
  » Low-wage workers
  » Unaffordable employee contributions
  » Seasonal workers
  » Many workers eligible for other coverage

• ISSUES
  * Exchange plans are not customizable
  * Equity Problem
  * Using Health Savings Accounts
  * Trading a pre-tax cost for post tax benefits like wages or lump sums

• Proceed with Caution!!!
  • Do not agree to terminate coverage or move to Exchanges without requesting a full review from the Staff and District Director!
For more information

• Healthcare.gov
  – Government website provides basic information about the law and access to “Obamacare” Exchanges

• kff.org
  – Kaiser Family Foundation – tons of information on health insurance costs and policy (youtoons)

• hhs.gov/healthcare
  – Great basic information about the ACA