

IMPLEMENTATION OF THE AFFORDABLE CARE ACT

Presented by

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REPEAL THE AFFORDABLE CARE ACT

- **H.R. 2, 112th CONGRESS, “REPEALING THE JOB KILLING HEALTH CARE LAW”**
Passed House of Representatives 1/19/11, 245 – 189, Roll Call 14
- **SA 13, 112th CONGRESS**
Rejected by U.S. Senate 2/2/11, 47 – 51, Roll Call 9
- **H.R. 6079, 112th CONGRESS, “REPEAL OF OBAMACARE ACT”**
Passed House of Representatives 7/11/12, 244 – 185, Roll Call 460
- **H.R. 45, 113th CONGRESS**
Passed House of Representatives 5/16/13, 229 – 195, Roll Call 154

NFIB v. SEBELIUS 567 U.S. ____ (2012)

6/28/12: Supreme Court of the United States upholds the Affordable Care Act's individual mandate

Chief Justice John Roberts: individual mandate a valid exercise of Congress' taxing authority

REPEALED

- Internal Revenue Code 1099 reporting requirements
- Free choice vouchers
- Community Living Assistance Service and Supports (CLASS) Act

DELAYED

- Employers must notify employees of coverage through the new exchanges
- Employers verify employee health insurance coverage
- Employers with more than 200 employees auto-enroll newly eligible employees into least expensive medical plan
- Plan choice in federally-run SHOP exchanges
- Federally-run SHOP exchanges open for enrollment
- Employer mandate
- Implementation of out-of-pocket cost limits under certain circumstances

2013

- Provide employees with “Summary of Benefits and Coverage” (SBC)
- Disclose aggregate cost of employer-sponsored health coverage on each employee’s W-2. **Mandatory** for employers filing 250 or more W-2s
- High earners (\$200K single filers / \$250K joint filers) pay additional 0.9% Medicare payroll tax and 3.8% Medicare payroll tax on investment income
- Annual employee pretax contributions to FSAs limited to \$2,500

ESSENTIAL HEALTH BENEFITS (EHB)

- Ambulatory patient services
- Emergency services
- Hospitalization
- Laboratory services
- Maternity and newborn care
- Mental health and substance use disorder services
- Prescription drugs
- Pediatric services, including oral and vision care
- Preventive and wellness services and chronic disease management
- Rehabilitative and habilitative services and devices

BENCHMARK OPTIONS

- One of the three largest small group plans in the state
- One of the three largest state employee health plans
- One of the three largest federal employee health plan options
- The largest HMO plan offered in the state

ACA SMALL BUSINESS TAX CREDITS

Sliding scale

Maximum credit for employers with fewer than 10 employees with average annual wages of less than \$25K. Phases out at 25 employees and average wages of \$50K.

Maximum credit in 2010 – 2013: 35%

Maximum credit beginning in 2014: 50% for coverage purchase through an exchange. Available for two years.

For more information

<http://www.irs.gov/uac/Small-Business-Health-Care-Tax-Credit-for-Small-Employers>

EXCHANGES

Individual

SHOP (**S**mall **B**usiness **H**ealth **O**ptions **P**rogram)

PREMIUM ASSISTANCE

Income between 100% - 400% of FPL

+/- \$11,500 - \$46,000 for an individual

+/- \$23,500 - \$94,200 for family of four

QUALIFIED PLANS IN EXCHANGE

Bronze – 60 % AV

Silver – 70% AV

Gold – 80% AV

Platinum – 90% AV

“These are systems that typically take two or three years to build. The last time I looked at the calendar, that’s not what we’re working with.”

*Kevin Walsh, Senior Vice President & Managing Director
Healthcare Eligibility and Exchange Services
Xerox Corporation*

November 2012 as quoted in “The Washington Post”, February 18, 2013

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NAW REGULATORY ALERT

**“INTERNAL REVENUE SERVICE ISSUES PROPOSED
REGULATIONS TO IMPLEMENT THE HEALTH
REFORM LAW’S EMPLOYER MANDATE”**

<http://www.naw.org/files/RegulatoryAlert.pdf>

EMPLOYER MANDATE

BEGINNING IN JANUARY 2015

Large employers who fail to offer full-time employees and their dependents minimum essential coverage will be subject to penalties

GLOSSARY OF TERMS

- Coverage is *affordable* if the employee's contribution to the premium for self-only coverage for the employer's lowest cost coverage that provides minimum value does not exceed 9.5% of the employee's household income
- An employee's *dependent* is a child (spouses are not included) up to the age of 26
- A *full-time employee* is an individual employed on average at least 30 hours per week (or 130 hours per calendar month).
- To determine the number of *full-time equivalents (FTEs)* in your employ for any month, calculate the total hours of service for all part-time employees during that month and divide by 120
- A *large employer* is one with 50 or more full-time employees (including FTEs)
- An applicable large employer offers *minimum essential coverage* when the offered coverage provides minimum value and is affordable
- Coverage provides *minimum value* if the plan's share of the total allowed costs of benefits provided under the plan is not less than 60% of those costs.

ANNUAL AMOUNT OF PENALTIES

NON-OFFERING EMPLOYERS

{ Total number of full-time employees – 30 } x \$2,000

INADEQUATE COVERAGE

{ Total number of full-time employees – 30 } x \$2,000

or

\$3,000 per full-time employee who receives premiums subsidy to purchase coverage through the exchange

whichever is less

MORE INFORMATION

NAW REGULATORY ALERT

<http://www.naw.org/files/RegulatoryAlert.pdf>

INTERNAL REVENUE SERVICE (IRS) Q & A

<http://www.irs.gov/uac/Newsroom/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act>

IRS Guidance

<http://www.naw.org/files/IRSGuidance-OneYearDelay.pdf>

US CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

<https://www.HealthCare.gov/>

ACA TAXES & FEES TAKING EFFECT IN 2013, 2014

- 2.3% medical device tax
- Annual fee on issuers of full-insured plans (a/k/a/ “hidden health insurance tax”)
- 3.5% surcharge on health insurance plans sold through federally-run exchanges
- Transitional reinsurance fee on insurers and self-insured employers
- Comparative effectiveness research fee on insurers and self-insured employers

KEY INSURANCE MARKET REFORMS TAKING EFFECT
IN 2013, 2014

- Annual limits for group health plans prohibited
- Pre-existing conditions exclusions prohibited
- Coverage required for non-dependent children up to age 26 (if plan provides dependent coverage)
- Prohibition on waiting periods of longer than 90 days
- Prohibition on discrimination based on health status
- Guaranteed issue and renewability
- Use of health status, claims experience, and gender as rating factors prohibited
- Limitation on age (3:1), and tobacco use (1.5:1) as rating factors
- Deductibles for employer-sponsored plans in small group market limited to \$2,000 individual / \$4,000 family
- Out-of-pocket cost-sharing maximums limited to \$6,250 self-only and \$12,500 family

“As part of the Patient Protection & Affordable Care Act, a series of provisions applies to individual and small group comprehensive medical insurance plans effective January 1, 2014 ... anticipated to have a potentially significant impact on current premium rates.”

Milliman Report

April 25, 2013

Prepared for America's Health Insurance Plans

KEY LEGISLATION

EMPLOYER MANDATE REPEAL

H.R. 903, “American Job Protection Act”

Reps. Charles Boustany (R-LA) & John Barrow (D-GA)

S. 399, “American Job Protection Act”

Sen. Orrin Hatch (R-UT)

HEALTH INSURANCE TAX REPEAL

H.R. 763, “To repeal the annual fee on health insurance providers”

Reps. Charles Boustany (R-LA) and Jim Matheson (D-UT)

S. 603, “Jobs & Premium Protection Act”

Sen. John Barrasso (R-WY)

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