Broader Perspective. Business Solutions.

Health Care Reform: Ready or Not, Here it Comes!

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Agenda

- Employer Mandates
- Shared Responsibility
- Exchanges
- Taxes & Fees
- Individual Mandate
- DOMA
- The YouToons Get Ready for Obamacare

The Elements of Reform

Healthcare Reform Timeline

2010

- Benefit coverage changes
  - Preventive care at 100% in network
  - Dependents < age 26
  - No pre-ex < age 19
  - Prohibits rescissions except fraud
  - No lifetime limits/annual limits on essential benefits
  - Patient protections
  - Grievance and appeals updates
- Temporary high-risk pool
- Uniform MLR definition (NAIC)
- HHS web portal

2011

- Minimum MLR requirements
- Medicare Advantage plans begin to have payments frozen
- Medicare Advantage cost-sharing limits effective
- Pharmaceutical fee
- Rate review implementation

2012

- Patient-centered outcomes research fee
- MLR reporting goes "live"
- Administrative simplification begins to phase in
- Uniform summary of coverage

2013

- Medical device fee
- Exchange coverage notice
- FSA cap
- Tax deduction for Medicare Part D subsidy eliminated

2014

- Guaranteed issue
- Individual coverage mandate
- Individual subsidy
- State individual and small group exchanges operational
- Rating rule changes
- Insurer taxes
- Employer "pay or play" mandate
- Essential health benefits
- Medicaid expansion

2015-2019

- Increased penalties on individual mandate
- Increased insurer taxes
- States must allow groups with <100 employees into exchanges (2016)
- "Cadillac tax" (2018)

- 90-day maximum waiting period
- Auto-enrollment
- Annual reporting of employee coverage
- Definition of full-time employees
- Wellness incentives

Employer Mandates

Effective 2014

- Waiting periods can be no longer than 90 days.
  - California exception: 60 days
- Pre-existing condition exclusions will be eliminated.
- Small Group annual deductibles cannot exceed $2,000 for single coverage and $4,000 for family coverage.
- Out of pocket maximums cannot exceed those applicable to health savings accounts in 2014 (today those limits are $6050/$12100).
- Wellness rewards cannot exceed 30% of the cost of employee only coverage (tobacco cessation: 50%).

Employer Mandates

Other things to know

- Full time employees now will be 30 hours per week.
- In some cases, employers MAY continue to discriminate in favor of highly compensated employees in either plan design or cost until 105(h) ruling has been decided upon. Still pending with IRS. Seek guidance.
- Carriers will be required to inform all clients of MLR – medical loss ratio. Carriers must report by June and Carriers must refund appropriate dollars – if any – by August. Carriers did refund millions of dollars in 2012 to plan sponsors and individual insureds. Rebates may be "plan assets" under ERISA; employers must distribute according to guidance.

Employer Mandate
“Shared Responsibility”

Employer Mandates

Pay or Play – Employer Shared Responsibility Rules

Updated per IRS 12.28.12

- Employers must offer coverage to 95% of full time employees to meet coverage requirement of ACA.
- Term dependents refers only to employee's children under the age of 26 and not spouses.
- Requirements are effective first day of plan year after January 1, 2014.
  - **Delayed until 2015.**
- Allowing for a one time election change in cafeteria plans for employees opting exchange coverage in 2014.
- Controlled group rules apply for purposes of determining whether an employer is a large employer (over 50 full time equivalent employees)

2014: Penalty Triggers for Employers

Trigger #1: Don't offer medical insurance

- Non-deductible tax penalty of **$2,000** per FT minus first 30 employee

530 ees – 30 ees = 500 ees x $2,000 = $1,000,000

- Penalties are adjusted annually for inflation beginning 2015.

Trigger #2: Don't offer quality and affordable medical insurance

- Non-deductible **$3,000** for each employee certified for premium assistance

To Pay or Play?

PPACA Play Or Pay Analysis

Note: This report shows the costs of a healthcare plan by employee vs the cost of taxes if you do not provide a plan. We assume that employees who currently waive offered benefits will not purchase a plan on the exchange. Benefit costs are estimated to match the previous years cost plus a growth percentage (supplied at run time) for employees that currently particpate in the benefit plan. For those who are not currently eligible, we assume a default cost of $#,### per year (supplied at run time). At run time, the user also supplies the estimated number of new hires and wait period length before eligibility. Requires more than 50 employees.

Employee Name	Plan Option2	Annual Salary	Avg Weekly Hours	Employee Contribution	Employer Contribution	Total Contribution	Mandate Tax	Plus Exchange Tax	Total Tax
Allen, Harvey R.	Family	$62,000.00	40	$1,845	$2,460	$4,305	$2,000	$1,000	$3,000
Aniston, Jennifer	Waived	$117,500.00	40				$2,000	$0	$2,000
Ankiel, Richard A.	Family	$125,000.00	40	$1,890	$2,520	$4,410	$2,000	$1,000	$3,000
Baja, Heidi M.	Waived	$96,865.40	40				$2,000	$0	$2,000
Baker, Harry B.	Ineligible	$28,500.00	40	$1,600	$3,200	$4,800	$2,000	$1,000	$3,000
Baker, Jonathan K.	Waived	$74,000.00	40				$2,000	$0	$2,000
Balles, Alan M.	Employee + One	$79,000.00	40	$1,680	$2,100	$3,780	$2,000	$1,000	$3,000
Ballinger, Hank M.	Employee Only	$28,500.00	40	$0	$1,845	$1,845	$2,000	$1,000	$3,000
Bana, James R.	Employee + One	$90,090.00	40	$1,680	$2,100	$3,780	$2,000	$1,000	$3,000
Banas, Hope M.	Waived	$76,500.02	40				$2,000	$0	$2,000
Banks, Henry M.	Family	$41,000.00	40	$1,845	$2,460	$4,305	$2,000	$1,000	$3,000
Baren, Mark M.	Employee + One	$35,000.00	40	$1,680	$2,100	$3,780	$2,000	$1,000	$3,000
Barley, Cheryl	Waived	$57,000.00	40				$2,000	$0	$2,000
Bell, Henry S.	Family	$83,000.00	40	$1,890	$2,520	$4,410	$2,000	$1,000	$3,000
Benes, Andy	Ineligible	$9,478.04	40	$1,600	$3,200	$4,800	$2,000	$0	$2,000
Berger, Adam M.	Family	$42,309.54	40	$1,890	$2,520	$4,410	$2,000	$1,000	$3,000

Affordable & Credible Coverage

Coverage is **"affordable"** when:

- The employee cost for single coverage for the employer's lowest cost plan does not exceed 9.5% of household income (determined based on one of 3 safe harbor tests)
- Contributions toward dependent coverage not part of calculation

Coverage is **"credible"** when:

- The plan provides "minimum value" (it has at least a 60% actuarial value)

Affordability Safe Harbors

- Form W-2 safe harbor--use Box 1 wages
  - Determined after the end of the calendar year on an employee-by-employee basis
  - For 2014, look at 2014 Form W-2 (issued in January 2015)
- Rate of pay safe harbor
  - Take rate of pay for each eligible hourly employee, multiply that rate by 130 hours, and determine affordability
  - Allows employer to determine affordability prospectively
- Federal poverty line safe harbor
  - Disregard employees whose income qualifies them for Medicaid (cannot receive premium tax credit if earn below 100% of FPL)
  - Determine affordability using FPL for a single individual

Calculating Affordability

- Employee only coverage
- Based on least expensive plan offered
- 9.5% of W-2 earnings
- $132/month is 9.5% of $8 per hour (CA's min wage)

	Plan A	Plan B	Plan C
EE only	**$50**	$100	$150
EE + SP	$250	$350	$450
EE + CH	$300	$400	$500
EE + SP/CH	$500	$600	$850

Calculate Employee Contributions

PPACA Exception Report

Note: The PPACA requires that employee's premium not exceed 9.5% of their annual earnings (as reported on their W-2). In 2018, any policy with premiums exceeding $10,200 for an individual or $27,500 for a family is subject to a "Cadillac Tax".

Employee Name	Plan Option	Avg Weekly Hours	W-2 Income	Employee Contribution	Employer Contribution	Total Contribution	Employee Contribution %	Notes
Allen, Harvey R.	Family	40	54,030.85	$738.00	$984.00	$1,722.00	1.4%	
Ankiel, Richard A.	Family	40	101,322.28	$756.00	$1,008.00	$1,764.00	0.7%	
Haleman, Heidi G.	Family	40	275,224.64	$9,072.00	$5,040.00	$14,112.00	3.3%	This policy will be subject to the Cadillac tax in 2018.
Lowe, Cary M.	Family	40	45,230.38	$756.00	$1,008.00	$1,764.00	1.7%	
Meyers, Sue M.	Family	40	14,247.91	$738.00	$984.00	$1,722.00	5.2%	
Michaels, Joseph M.	Employee + One	40	18,040	$656.00	$820.00	$1,476.00	3.6%	
Norchi, Lillian M.	Employee Only	40	15,929.32	$574.00	$738.00	$1,312.00	3.6%	
Noressi, Anna M.	Employee Only	40	39,969.88	$588.00	$756.00	$1,344.00	1.5%	
Parker, Timothy P.	Employee Only	40	80,132.85	$588.00	$756.00	$1,344.00	0.7%	
Parkson, Matthew M.	Employee Only	40	18,381.94	$574.00	$738.00	$1,312.00	3.1%	
Reagan, Marla M.	Family	40	38,840.08	$756.00	$1,008.00	$1,764.00	1.9%	
Redding, William M.	Family	40	9,492.32	$738.00	$984.00	$1,722.00	7.8%	
Smith, Sharon	Employee Only	40	15,170	$574.00	$738.00	$1,312.00	3.8%	
Smith, Tim	Family	40	21,856.28	$738.00	$984.00	$1,722.00	3.4%	
Stuben, Robin M.	Employee Only	40	36,432.22	$588.00	$756.00	$1,344.00	1.6%	
Summer, Perry A.	Employee Only	40	91,346.17	$588.00	$756.00	$1,344.00	0.6%	
Summers, Julie	Employee Only	22	10,824	$574.00	$738.00	$1,312.00	5.3%	
Sunbuckets, Carmen M.	Employee + One	40	60,040	$672.00	$840.00	$1,512.00	1.1%	
Taam, Bob	Family	40	4,920	$738.00	$984.00	$1,722.00	15.0%	The employer premium has exceeded the maximum of 9.5% of W-2 earnings.
White, Sam M.	Employee Only	40	21,732.05	$574.00	$738.00	$1,312.00	2.6%	

2014 Federal Poverty Levels

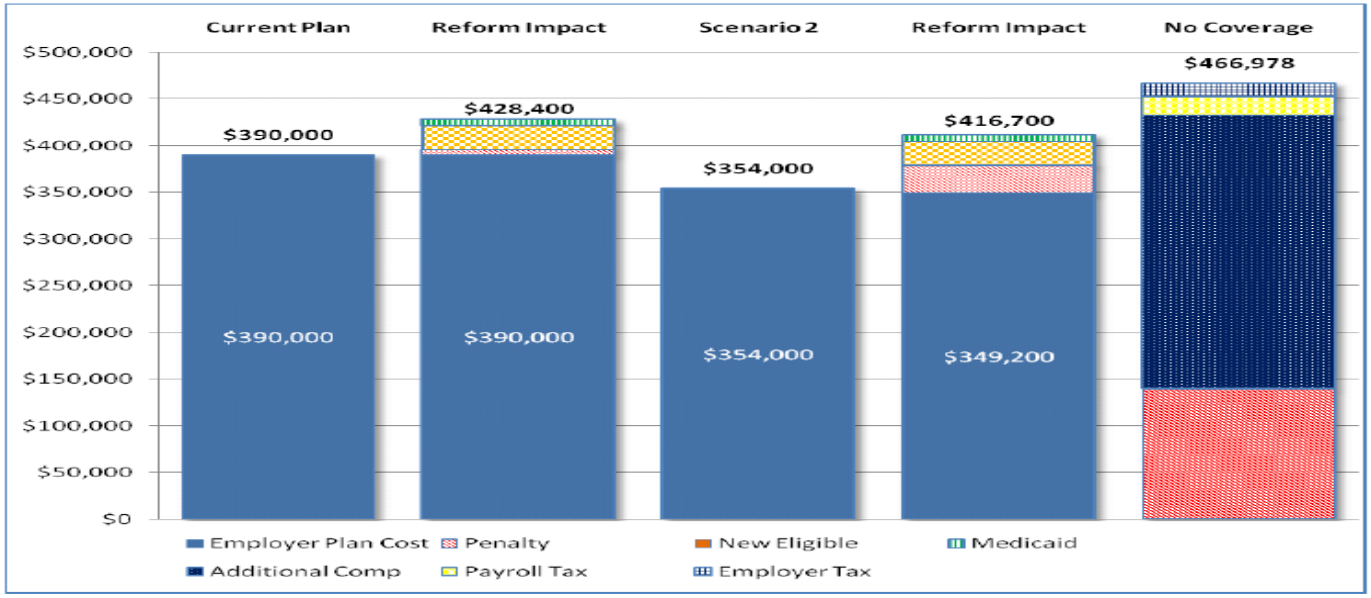
Family Members	100% FPL	133% FPL	250% FPL	400% FPL
1	$11,735	$15,608	$29,338	$46,940
2	$15,896	$21,142	$39,740	$63,584
3	$20,056	$26,674	$50,140	$80,224
4	$24,217	$32,209	$60,543	$96,868
5	$28,377	$37,741	$70,943	$113,508
6	$32,538	$43,276	$81,345	$130,152
7	$36,698	$48,808	$91,745	$146,792
8	$40,859	$54,342	$102,148	$163,436

Other Penalty Triggers

- To avoid a potential penalty, an employer must provide employees with an effective opportunity to enroll (or decline coverage) at least once each plan year
- An employer cannot render an employee ineligible for a premium tax credit by requiring the employee to enroll in unaffordable coverage
- An employee's failure to make a timely premium payment may result in termination of coverage without the employer becoming liable for an affordability penalty

Calculating the Cost

Section 4 - Employer Summary



Summary Table		
Current plans	**Current Plans**	**Scenario 2**
Employer cost midpoint estimate of Medicaid eligibles	$ 7,200	$ 7,500.00
Cost of newly eligible individuals	$ 25,200	$ 25,200.00
Cost impact of employer shared responsibility penalty	$ 6,000	$ 6,000.00
Employer Plan Cost	$ 390,000	$ 390,000
Cost Impact of Dropping Coverage		
Employer Penalty	$ 140,003	
Additional Compensation	$ 292,500	
Employer payroll tax on additional compensation	$ 20,475	
Tax impact of penalty not being tax deductible	$ 14,000	

Who Is a Full-time Employee?

- A person employed an average of 30 hours per week
- Regulations treat 130 hours of service as the monthly equivalent of 30 hours of service per week ((52 x 30) ÷ 12 = 130)
- Calculate on a monthly basis, not payroll period
- Hours of service include hours for which employee paid or entitled to be paid, including vacation, holiday, illness, disability, military duty, leave of absence, jury duty, or layoff

Who Is a Full-time Employee?

- Optional look-back measurement period may be used for those with variable hours
- For an on-going employee, choose a look-back measurement period of between 3 and 12 months (the “standard measurement period”)
  - If worked full-time during the standard measurement period, treat as full-time for the “standard stability period” (which is the greater of 6 months or the length of the standard measurement period)
- New non-variable hour and non-seasonal employees expected to work full-time are treated as full-time
- If new employee is a variable hour or seasonable employee, may use a look-back measurement period followed by a stability period

Insurance Exchanges

Covered California

- Name of the California exchange is “Covered California.”
- It must be ready to accept enrollees in October 2013 for coverage beginning January 1, 2014.
- Plan designs have been released. Some nuances between individual plans and small business plans. HSA plan is available.
- Participating carriers have been selected.
- Factors to consider:
  - Network availability
  - Out-of-pocket costs per tier
  - Premiums

COVERED CALIFORNIA

Public exchanges at a glance

	Individual	Small Group (SHOP)
Who is eligible	• US citizen or legal alien • Not incarcerated • Resident of the state in which exchange is based	• FT employees of small businesses with up to100 employees. • States have the option to limit to businesses of 50 or less until 2016 (California). • In 2017, states may open the Exchanges to large employers.
Available assistance	Access to premium tax credits and cost-sharing subsidies: • Tax credit subsidies for those between 133% and 400% of the federal poverty level (FPL) (California, 138% of FPL) • Cost sharing subsidies for those between100% and 250% of the FPL	• Business tax credit for employers with up to 25 employees and average income of less than $50,000 a year.

Products sold on the exchange

Metallic exchange products

A plan will provide a level of coverage that is designed to provide essential benefits that have an ***actuarial value*** of:

- **Platinum – 90%**
- **Gold – 80%**
- **Silver – 70%**
- **Bronze – 60%**

Catastrophic plan

This product is available to individuals under 30 years of age or those exempt from the individual mandate because no affordable plan is available to them or because of a hardship

"No wrong door"

The exchange will inform individuals of eligibility requirements for the Medicaid program, the Children's Health Insurance Program (CHIP), or any applicable state or local public program

Dental plan

Exchanges may sell stand-alone dental plans if they offer pediatric dental benefits meeting the requirements of the ACA

SHOP Exchange Rates

- Rates may vary based on:
  - Individual or family coverage
  - Rating area (more geographic regions)
  - Age, but cannot vary by more than 3 to 1 for adults
  - Tobacco use, but cannot vary by more than 1.5 to 1
    - California exception
  - No more risk adjustment factors
  - No more health underwriting

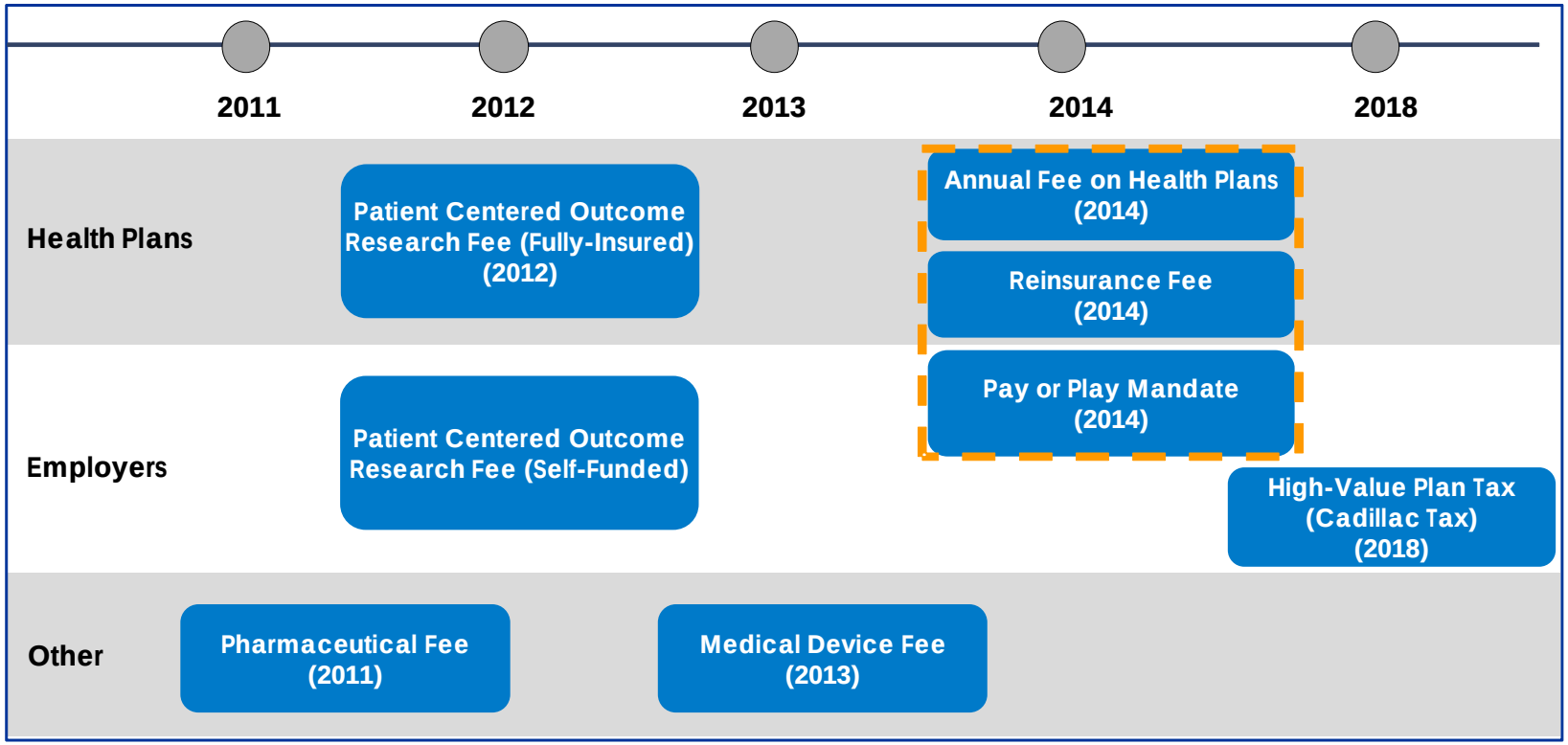
SHOP Administration

- Plans may be purchased on-line, through the 800 number, or from a certified insurance agent
- Rolling open enrollment for small employers
  - For individual coverage, may only enroll during open enrollment, unless they have a special enrollment event
- Employers choose a metal tier and employees choose a plan
  - Employees cannot buy up or down
- Exchange bills employer
- Minimum contribution & participation requirements

New Taxes and Fees

Key 2014 Provision: Taxes & Fees

These taxes and fees will have significant financial impacts on health plans, employers, and other groups.



Source: http://www.kff.org/healthreform/upload/8061.pdf, Kaiser Family Foundation, March 2010

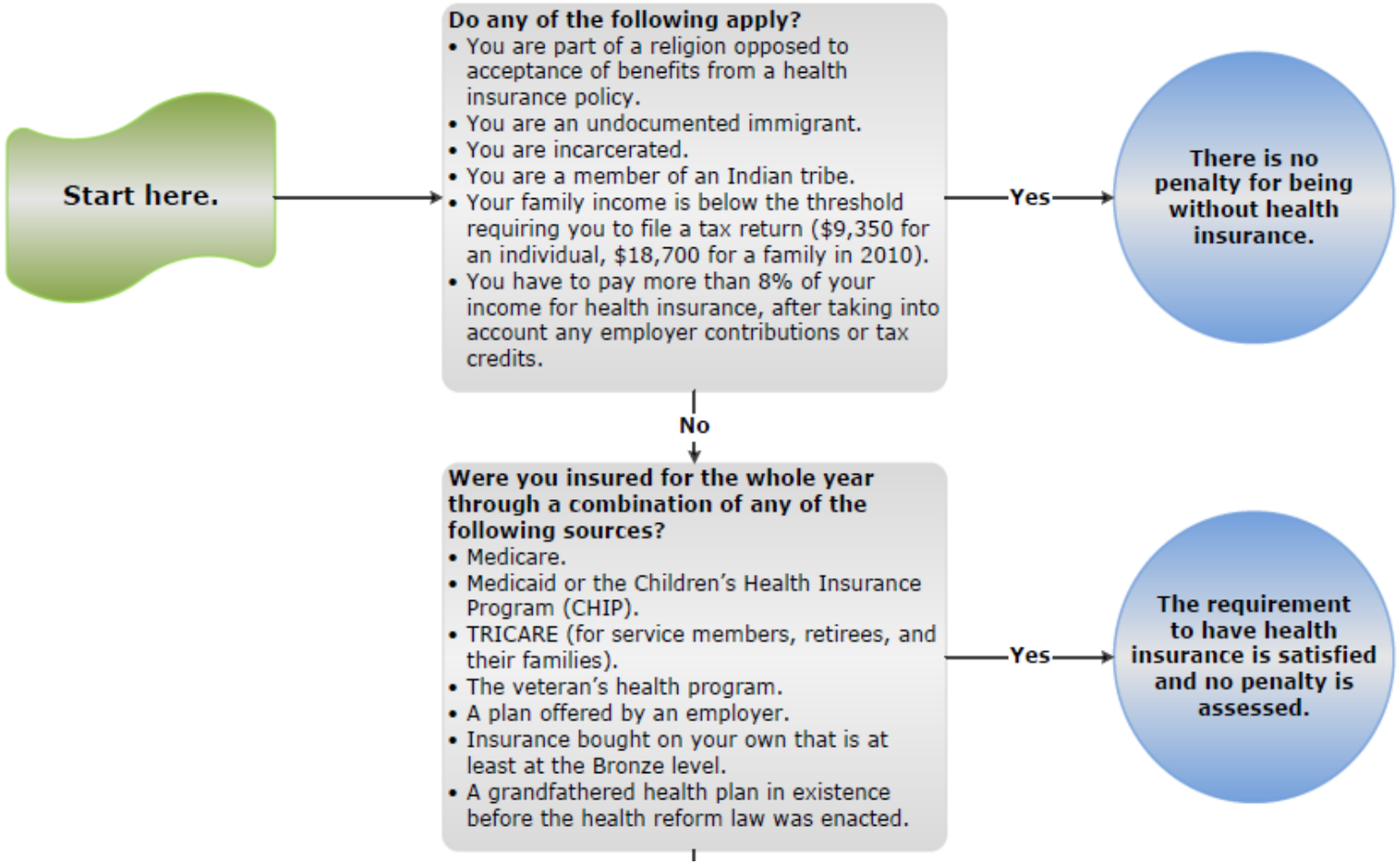
Individual Mandate

Individual Mandate

- **Effective 1/1/14**, individuals (US Citizens and legal residents) must have "minimum essential coverage" for themselves and their dependents or pay a penalty (some exceptions apply).
- The penalty is **the greater of**
  - $95 in 2014, $325 in 2015, and $695 in 2016 (capped at 3x the annual flat dollar amount per year) **or**
  - 1% of income for 2014, 2% for 2015, and 2.5% by 2016
- "Minimum essential coverage" includes
  - An eligible employer-sponsored plan
  - A grandfathered health plan
  - An individual health plan
  - Medicare Part A, Medicaid, or CHIP

Individual Mandate – a Flow Chart

The Requirement to Buy Coverage Under the Affordable Care Act Beginning in 2014



More Compliance Obligations

Notice of Exchange

- Employers subject to FLSA must notify employees regarding health care coverage
- Provide notice to full-time and part-time employees, even if not enrolled in coverage
- **Effective date**: October 1, 2013 (new hires within 14 days)
- Notice must include information about existence of health benefit exchange, potential eligibility for subsidy under exchange if employer's share of benefit cost is less than 60 percent, and risk of losing employer contribution if employee buys coverage through an exchange
- Model notices issued (and amended COBRA notice)

Delayed Reporting Requirements: 2015

- Reporting of Health Insurance Coverage to IRS(6055)
  - Applies to insurers and **self-insured employers** providing "minimum essential coverage" (including grandfathered plans)
  - Must also provide written statement to covered individual
- Reporting of Health Insurance Coverage to IRS (6056)
  - Applies to **large employers** who are subject to the play-or-pay penalties
  - Must also provide written statement to F/T employees
- Penalties will be assessed for failure to comply

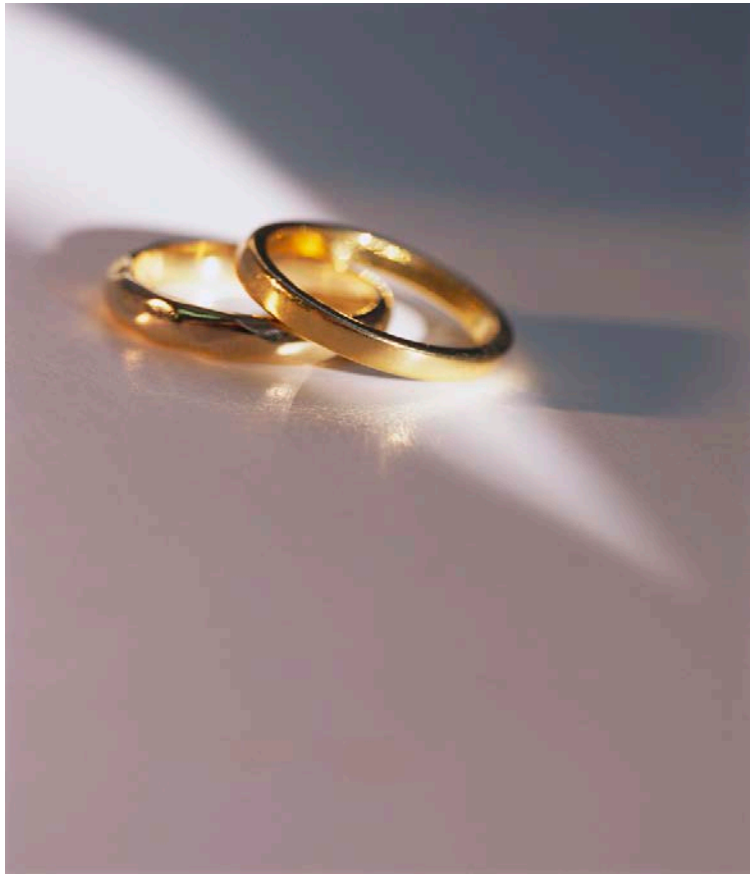
And Don't Forget . . .

- Medicare Tax Increase on high income individuals
  - **Effective**: January 1, 2013
  - **Employer Requirement**: Withhold additional Medicare tax in the pay period in which employer pays employee in excess of $200,000
- W-2 Reporting of aggregate cost of health coverage
  - **Effective:** Calendar year 2012 - Cost must be reported on the W-2s issued in January 2013—and also reported in subsequent years
  - **Small employer Exception:** Those that filed fewer than 250 Forms W-2 for the preceding calendar year are not subject to the reporting requirement for Forms W-2 for the subsequent calendar year
- Summary of Benefits & Coverage
  - **Effective:** Compliance periods begin on or after September 23, 2012
  - Employer Requirement: Distribute according to rules
- Health FSAs: Employee FSA contributions are capped at $2,500 (to be indexed)
  - **Effective:** First cafeteria plan year after 12/31/12

Awaiting Guidance

- Guidance on delayed implementation of play-or-pay penalties
- Guidance on IRS and other reporting requirements
- Nondiscrimination rules for fully insured plans
- Automatic enrollment rules for employers with 200 or more full-time employees
- More guidance on the Exchange

DOMA & Benefits



DOMA & Benefits

- Same-sex marriage
  - State of celebration
  - Benefits
    - Amend plan documents as necessary
  - Taxes
    - Change in federal and state tax treatment of benefits
    - Pre-tax contributions through cafeteria plans
    - Refunds and adjustments
- Domestic partnerships and registered domestic partnerships in California: different rules apply
- Wage and Hour Division Fact Sheet No. 28F, "Qualifying Reasons for Leave under the Family and Medical Leave Act"

Questions?

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