

The ACA "Notice of Exchange"

January 24 & 29, 2013



The ACA "Notice of Exchange"

- Welcome! We will begin at 3 p.m. Eastern
- There will be no sound until we begin the webinar. You can listen to the audio portion through your computer speakers or by calling into the phone conference number provided in your invitation email
- You will be able to submit questions during the webinar by using the “questions” box located on your webinar control panel



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Assurex Global Shareholders · January 24 & 29, 2013

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- Payne West Insurance
- R&R/The Knowledge Brokers
- RCM&D
- The Rowley Agency
- Senn Dunn Insurance
- Smith Brothers Insurance
- Starkweather & Shepley Insurance Brokerage
- Van Gilder Insurance
- Woodruff-Sawyer & Co.
- John L. Wortham & Son



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ACA Notice of Exchange

- Background
 - ACA amends the Fair Labor Standards Act (FLSA) to require employers to provide a notice to employees to inform them of the establishment of public exchanges and the availability of subsidies to certain qualifying individuals.
- Who Must Comply
 - It appears that virtually all employers may be subject to the notice requirement
 - ...an employer to which this Act [FLSA] applies”
 - FLSA definition of employer is broad
 - Forthcoming regulations could define (clarify) which employers are subject to the rule in more detail



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ACA Notice of Exchange

- Effective date
 - Per statute, notice must be sent by March 1, 2013
 - Notice must also be provided to all new employees
- Notice Requirement Delayed by DOL
 - On Thursday January 24th the DOL delayed notice requirement
 - *“...until such regulations are issued and become applicable, employers are not required to comply with FLSA section 18B...”*
 - *“The Department of Labor expects that the timing for distribution of notices will be the late summer or fall of 2013, which will coordinate with the open enrollment period for Exchanges.”*
 - DOL expected to release model notice and additional guidance on distribution



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ACA Notice of Exchange

- Content requirements
 - The following items are specifically listed in the statute:
 - **Exchange information** – *“...informing the employee of the existence of an exchange, including a description of the services provided by such exchange, and the manner in which the employee may contact the exchange to request assistance”*
 - **Minimum value information** – *“... if the employer plan's share of the total allowed costs of benefits provided under the plan is less than 60 percent of such costs, that the employee may be eligible for a premium tax credit...and a cost sharing reduction...if the employee purchases a qualified health plan through the exchange”*
 - We will discuss minimum value (MV) later in the presentation
 - It is interesting that the statute does not require the notice to address the affordability of the employer coverage



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ACA Notice of Exchange

- Content requirements (cont.)
 - The following items are specifically listed in the statute:
 - **Impact on employer contributions** - *“...if the employee purchases a qualified health plan through the exchange , the employee may lose the employer contribution (if any) to any health benefits plan offered by the employer and all or a portion of such contribution may be excludable from income for federal income tax purposes.*
 - Additional content may be required by forthcoming DOL guidance
 - Employer plan affordability?
 - Election change information?



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Health Insurance Exchanges

- American Health Benefit Exchange
 - A marketplace where carriers will sell individual and small group health insurance plans
 - Individual health insurance
 - Public exchanges will certify and administer ACA subsidies for low and middle income individuals purchasing individual health insurance through the exchange
 - Guarantee issue, no medical underwriting
 - Small group insurance (“SHOP exchange”)
 - Specific benefit levels plan offered
 - The “medal tiers” – Bronze (60%), Silver (70%), Gold (80%), and Platinum (90 %)



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Health Insurance Exchanges

- American Health Benefit Exchange
 - Federal exchange
 - If state does not set up an exchange, the federal government will operate an exchange in that state
 - Some states opting for a state/federal “partnership exchange”
 - State will retain some decision making control but use the federal exchange infrastructure and technology
 - Subsidies will be provided through the federal exchange
 - IRS has taken position that subsidies are available through state or federally operated exchange
 - Federal government preparing to offer at least 2 health plans nationwide
 - One will likely be a national health insurance carrier, the other a non-profit plan administered by the office for personnel management (OPM)



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Health Insurance Exchanges

- SHOP and small group rules
 - Group plans available to small employers
 - <50 or <100 employees depending on state (100 in all states beginning in 2016)
 - Still unclear how competitive the federal exchange small group option will be by 1/1/2014
 - Small group insurance reforms
 - ACA small group reform rules apply to all small group plans both inside and outside the exchange
 - No rating based on claims experience
 - No medical underwriting or pre-ex limitations
 - Age rate spread of no more than 3:1
 - Smoker rate spread of no more than 1.5:1



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Health Insurance Exchanges

State Run Exchange		Federal/State Partnership Exchange	Federally Operated Exchange	
California	Mississippi	Arkansas	Alabama	New Jersey
Colorado	Nevada	Delaware	Alaska	North Dakota
Connecticut	New Mexico	Illinois	Arizona	Ohio
Wash. D.C.	New York	Iowa	Florida	Oklahoma
Hawaii	Oregon	Michigan	Georgia	Pennsylvania
Idaho	Rhode Island	North Carolina	Indiana	South Carolina
Kentucky	Utah	West Virginia	Kansas	South Dakota
Maryland	Vermont		Louisiana	Tennessee
Massachusetts	Washington		Maine	Texas
Minnesota			Missouri	Virginia
			Montana	Wisconsin
			Nebraska	Wyoming
			New Hampshire	

- www.statehealthfacts.org from Kaiser Family Foundation
- Excellent resource on status of state exchanges



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Employer Shared Responsibility Rules

- Applies only to “applicable large employer”
 - 50 or more full-time equivalents (FTE) prior calendar year
 - Each month calculate
$$\begin{aligned} & \text{Number of full time employees 30 hrs/wk} \\ & + \text{Total hours worked by part-time employee} \div 120 \\ & = \text{Number FTEs for month} \end{aligned}$$
 - Average 12 months of the year
- Effective date - transition rule
 - Effective first plan year beginning 1/1/2014
 - Non- calendar year plan must have been in effect 12/27/12 to take advantage of delayed effective date



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Employer Shared Responsibility Rules

- Two different types of employer penalties
 - 4980H(a) Penalty
 - Employer does not offer minimum essential coverage to all full time employees (30 hours per week) and at least 1 employee qualifies and purchases subsidized individual coverage through a public exchange
 - \$166.67/mo. times all full time employees (not counting first 30)
 - 4980H(b) Penalty -
 - Employer offers coverage to all FT employees however:
 - Coverage is unaffordable for some FT employees –or-
 - Some FT employees are not eligible for minimum value coverage
 - \$250/mo. times number of FT employees who qualify for and purchase subsidized individual coverage through a public exchange



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Low and Middle Income Subsidies

- Subsidies to help low and middle income individuals afford health insurance when purchasing individual health insurance through a public exchange
 - Advanceable premium tax credit based on household income
 - Qualified individuals will pay no more than a fixed maximum contribution depending on household income
 - Cost sharing reductions (i.e. lower deductibles and out-of-pocket costs)



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Low and Middle Income Subsidies

- Subsidies available only to individuals with household income up to 400% of Federal Poverty Level (FPL) without access to affordable employer sponsored coverage

	2012 FPL	2012 400% FPL
1	\$11,170	\$44,680
2	\$15,130	\$60,520
3	\$19,090	\$76,360
4	\$23,050	\$92,200
5	\$27,010	\$108,040
6	\$30,970	\$123,880



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Low and Middle Income Subsidies

- Subsidy details
 - Affordable = individual's required contribution to participate in employer plan is no more than 9.5% of household income
 - IRS rules make clear that an employee's qualification subsidy is based on the cost of employee only coverage
 - Family qualification for subsidy still up in the air
 - Waiting for IRS clarification on how to determine if family members may qualify for subsidized coverage
 - Household income
 - Modified adjusted gross income (MAGI) of individual, spouse and tax dependent in household required to file tax return



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Low and Middle Income Subsidies

- Subsidy details
 - Employer penalties
 - ACA employer penalties for “applicable large employers” are based only on an employee qualifying for a subsidy
 - Family members qualification for a subsidy will not trigger employer penalties



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Low and Middle Income Subsidies

- Subsidy process
 - Individuals must apply for health insurance coverage through a public (state or federal) exchange
 - Exchange will collect income and employer coverage data and certify if individual is eligible for subsidy
 - Recent guidance requires exchange to randomly verify employer coverage for a specific % of applicants
 - Exchange must notify an employer if an employee is certified
 - Employer has right to dispute information



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Low and Middle Income Subsidies

- Very few full-time employees who are eligible for an employer plan will qualify for subsidized individual coverage

\$24,000 Household Income	\$2,000 mo.
	X 9.5%
Employee cost must be >	\$190.00 mo.
\$60,000 Household Income	\$5,000 mo.
	X 9.5%
Employee cost must be >	\$475.00 mo.



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Subsidized Coverage Examples

Assumes a \$2500 - \$3000 deductible with \$6000 OOP

Example of Monthly Retail Cost		300% FPL Income	Maximum Premium by Individual	Federal Premium Subsidy
30 yr old family of 4	\$600.00	\$70,275	\$556.33	\$43.67
30 yr old single	\$159.00	\$34,516	\$273.25	N/A
50 yr old family of 4	\$918.00	\$70,275	\$556.33	\$361.67
50 yr old single	\$318.50	\$34,516	\$273.25	\$45.25

Kaiser Family Foundation Health Reform Subsidy Calculator
<http://healthreform.kff.org/SubsidyCalculator.aspx>



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Subsidized Coverage Examples

Assumes a \$2500 - \$3000 deductible with \$6000 OOP

Example of Monthly Retail Cost		150% FPL Income	Maximum Premium by Individual	Federal Premium Subsidy
30 yr old family of 4	\$600.00	\$35,137	\$117.08	\$482.92
30 yr old single	\$159.00	\$17,258	\$57.50	\$101.50
50 yr old family of 4	\$918.00	\$35,137	\$117.08	\$800.92
50 yr old single	\$318.50	\$17,258	\$57.50	\$261.00

Kaiser Family Foundation Health Reform Subsidy Calculator
<http://healthreform.kff.org/SubsidyCalculator.aspx>



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Decisions Decisions Decisions

30-year-old individual making \$17,000/yr

Pay individual mandate tax in 2016 = \$695

- (Greater of \$695 or 2.5% of income - \$425)

-Or-

Pay \$690/yr for silver plan through public exchange

- \$57.50/mo

50-year-old family making \$70,000/yr

Pay individual mandate tax in 2016 = \$2,085

- (Greater of \$2,085 or 2.5% of income - \$1,750)

-Or-

Pay \$6,675.96/yr for silver plan through public exchange

- \$556.33/mo



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Minimum Essential Coverage

- Minimum Essential Coverage (MEC) and Minimum Value (MV)
 - Minimum Essential Coverage (MEC)
 - “Any” employer sponsored health plan
 - Guidance expected from IRS on other requirements possible to meet MEC
 - Minimum Value (MV)
 - Plan must have an actuarial value of at least 60%
 - Guidance expected from IRS on rules regarding calculation of MV
 - HHS and IRS have promised to release an employer minimum value calculator for employer use



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Minimum Essential Coverage

- What does minimum value look like?
 - Kaiser family foundation study: modeled a 60% (Bronze) plan
 - Total out of pocket = \$6,350
 - \$4,375 individual deductible with 80/20 coinsurance
 - \$3,475 individual deductible with 60/40 coinsurance
- Why does this matter?
 - Employer avoids 4980h(a) penalty if minimum essential coverage (MEC) is offered to all full-time employees
 - Employer avoids 4980h(b) penalty if MEC with minimum value (MV) is offered to all full-time employees



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Thank you!



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