

ACA Regulatory Update

February 19 & 21, 2013



ACA Regulatory Update

- Welcome! We will begin at noon 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



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



ACA Regulatory Update

Assurex Global Shareholders · February 19 & 21, 2013

- Catto & Catto
- The Crichton Group
- The Daniel & Henry Co.
- Engle-Hambright & Davies
- Frenkel Benefits
- The HDH Group
- The Horton Group
- Kinney Pike Insurance
- LMC Insurance & Risk Management
- Lipscomb & Pitts Insurance
- Lyons Companies
- The McCart Group
- MJ Insurance
- Parker, Smith & Feek
- Payne West Insurance
- R&R/The Knowledge Brokers
- RCM&D
- The Rowley Agency
- Senn Dunn Insurance
- Smith Brothers Insurance
- Van Gilder Insurance
- Woodruff-Sawyer & Co.
- John L. Wortham & Son



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Agenda

- Notice of Exchange Update
- IRS Rule on Family Eligibility for Premium Assistance
- Paying the Patient Outcomes Research Fee
- Using HRAs to Fund Purchase of Individual Health Insurance
- Employer Shared Responsibility Rule Developments
 - Effective Date Transition Rules
 - Applicable Large Employer Transition Rule
 - New Employer Safe Harbors
 - 95% Margin of Error Rule
- Definition of Full Time Employee Developments



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



ACA Notice of Exchange

- Background
 - Employers must provide a notice to employees to inform them of the establishment of public exchanges & availability of subsidies
- Effective Date
 - Per statute, notice must be sent to all employees by March 1, 2013
- Notice Requirement Delayed by DOL
 - On Thursday January 24th the DOL delayed the notice requirement:
 - *“until such regulations are issued and become applicable...”*
 - Distribution of notices expected to be late summer or fall of 2013
 - DOL will release model notice language and additional guidance on distribution requirements



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Premium Assistance

- Background
 - The ACA provides subsidies (premium assistance) to certain individuals purchasing individual health insurance coverage through a public (state or federal) exchange
- Eligibility for ACA Subsidies
 - Individuals with household income up to 400% of Federal Poverty Level (FPL)
 - Subsidies are not available to employees or family members who are eligible for affordable employer sponsored minimum value health coverage

	2013 FPL	400% FPL
1	\$11,490	\$45,960
2	15,510	\$62,040
3	19,530	\$78,120
4	23,550	\$94,200
5	27,570	\$110,280
6	31,590	\$126,360



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Premium Assistance

- Affordable Employer Sponsored Coverage
 - “Affordable” for employee
 - Employee contribution for single (employee only) coverage in an employer plan is no more than 9.5% of household income
 - NEW DEVELOPMENT - “Affordable” for family members eligible for employer sponsored coverage
 - IRS guidance released January 30, 2013
 - An employee’s family member is also not eligible for subsidy if the contribution for single (employee only) coverage in an employer plan is no more than 9.5% of household income
 - This IRS interpretation significantly limits the number of lower income family members who will be eligible for subsidized coverage



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Premium Assistance

- Affordable Employer Sponsored Coverage Example
 - Employer requires employees to contribute \$100 per month for single (employee only coverage)
 - Employer requires employees to contribute an additional \$750 per month to enroll family members in employer plan
 - Total family contribution = \$850
 - Employee household income = \$20,000 per year
 - Contribution for single coverage (\$100/ mo.) = 6% of employees' household income
 - Additional contribution required for family contribution = 45% of household income
 - Family members are not eligible for subsidized coverage because employees' required contribution for single coverage is less than 9.5% of household income



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Premium Assistance

- Bottom Line
 - Very few employees or their families who are eligible for a minimum value employer plan will qualify for subsidized individual coverage

\$24,000 Household Income	\$2,000 mo.
	X 9.5%
Employee cost for single coverage must exceed	\$190.00 mo.



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Premium Assistance

- Impact of Rule on Employer Sponsored Plans
 - Employer shared responsibility penalties applicable to large employers are based solely on whether an employee qualifies for subsidies – family member qualification for subsidies has no impact on employer plan.
 - Enrollment rates
 - Employers with a significant number of lower income workers had been expecting that if subsidies were widely available to lower income families there would be a drop in family enrollment rates in the employer plan.
 - With no subsidies available to most employees and family members, the employer's plan becomes the most likely enrollment option for families of employees to avoid the individual mandate tax – potentially driving increased enrollment in employers plan.



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Patient Outcomes Research Fees

- Background
 - Fee on all group health plans to help fund research into the treatment of chronic health conditions
 - Effective for plan years beginning 11/1/2011
 - \$1 per participant per year for plan years (pppy) ending prior to 10/31/2013
 - \$2 pppy for plan years ending after 10/31/2013 through 2019
 - Applies to all fully insured and self-funded health plans
 - Important note - health reimbursement arrangements (HRA) are subject to the fee



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Patient Outcomes Research Fees

- Paying the Fee
 - Fully insured plans – carrier will pay
 - Self funded plans – plan sponsor must pay by July 31 the year after the end of the plan year – for example:
 - Plan year 1/1/2012 – 12/31/2012, fee due July 2013
 - Plan 4/1/2012 – 3/31/2013, fee due July 2014
 - First payments due by 7/31/2013 for 11/1, 12/1, & 1/1 plan years
 - Paid once annually using IRS Form 720 quarterly excise tax form



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Patient Outcomes Research Fees

- Calculating the Fee
 - Three allowed methods to calculate fee for self-funded plans
 - Actual Count Method
 - Average number of individuals covered for the entire plan year (i.e. number covered each day ÷ number of days)
 - Includes employees, spouses, dependents & other participants



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Patient Outcomes Research Fees

- Calculating the Fee
 - Three allowed methods to calculate fee for self-funded plans (cont.)
 - Snapshot Method
 - Add total of lives covered on a particular day (or equal number of days) in each quarter ÷ by number of dates used
 - Two methods to count family members
 1. Count the actual number of lives on designated date
 2. Count the number of participants with self-only coverage plus number of participants with family coverage multiplied by 2.35



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Patient Outcomes Research Fees

- Calculating the Fee
 - Three allowed methods to calculate fee for self-funded plans (cont.)
 - Form 5500 Method
 - Use the number of participants actually reported on the Form 5500 for the plan year
 - Add the total participants at the beginning plus the end of the year
 - Results in an estimate of the average contract size being 2.0 individuals per subscriber
 - Note the term “participant” in reference to 5500s refers only to the principal subscriber (e.g. the employee or COBRA participant) and does not include spouses or dependents



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Patient Outcomes Research Fees

- Special Rules for HRAs
 - HRA integrated with self-funded health plan
 - Only one fee required for combined HRA/self-funded plan
 - HRA integrated with fully insured health plan
 - Carrier will pay fee related to fully insured plan
 - Plan sponsor must also pay fee for HRA
 - HRA fee in this case is based only on number of employees eligible for benefits under the HRA
 - Counting of spouses and dependents is not required even though they are “covered” by the plan



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



HRAs & Individual Health Insurance

- Background
 - The ACA amended the Public Health Service ACT (PHSA) §2711 to prohibit health plans from imposing lifetime or annual limits on the dollar value of benefits
 - Regulations issued in 2010 made clear that §2711 applies to health reimbursement arrangements (HRAs)
 - Stand alone HRAs violate §2711 but were able to receive temporary waivers until 2013
 - HRAs which are integrated with a comprehensive group health plan (which meets requirements of §2711) are allowed
 - Defined contribution using an HRA
 - Some have been advocating for employers to set up an HRA funded by the employer to allow employees to use HRA funds to purchase individual coverage



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



HRAs & Individual Health Insurance

- January 2013 DOL FAQ
 - Two important clarifications regarding HRAs
 - An employer-sponsored HRA integrated with individual health insurance or with an employer plan that provides coverage through individual policies would violate PHSA §2711
 - To be considered integrated with the employers group plan the employee must be enrolled in the comprehensive group coverage at the same time, not just eligible to enroll
 - Effectively this eliminates the possibility of coverage through a stand alone and prohibits the use of an HRA as a tax advantage vehicle to fund the purchase of individual health insurance



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Employer Shared Responsibility Rules

- Background
 - Beginning in 2014, applicable large employers must offer minimum essential health coverage to all full-time employees or face possibility of “shared responsibility payments” (penalties)
 - Full time is generally any employee averaging 30 hours per week
 - “Applicable large employer”
 - Employed an average of at least 50 full-time equivalent (FTE) employees in the prior calendar year
 - All employers within the same controlled group are treated as a single employer for purposes of determining large employer status



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Employer Shared Responsibility Rules

- Background
 - 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)
 - \$2000/yr times number of all full time EEs not counting first 30



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Employer Shared Responsibility Rules

- Background
 - Two Different Types of Employer Penalties (cont.)
 - 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
 - \$3000/yr times number of employees who qualify for and purchase subsidized individual coverage through a public exchange



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Employer Shared Responsibility Rules

- Effective Date of Shared Responsibility Rules – Transition Rule
 - NEW DEVELOPMENT - Employer shared responsibility rules and penalties apply for first plan year beginning on or after 1/1/2014
 - Specific conditions to use transition rule
 - Non- calendar year plan must have been in effect on 12/27/2012
 - Plan must have either:
 - (1) been offered at last open enrollment to at least 1/3rd of all employees (both FT and PT), or
 - (2) had at least 25% of all employees (both FT and PT) enrolled
 - Example -Management carve-out with a July 1 plan year offered to only 10% of all employees
 - Employer penalties effective on 1/1/2014 not 7/1/2014
 - Additional issues if employer also maintains a calendar year plan



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Employer Shared Responsibility Rules

- Applicable Large Employer – Transition Rule
 - Generally the determination of status as an applicable large employer is based on the average employment for the 12 months in the prior calendar year
 - i.e. – an employer’s 2014 status is based on average employment over 12 months of 2013
 - NEW DEVELOPMENT – one time use of a 6 month average in 2013
 - Employers can choose any consecutive 6 month period in 2013 to calculate average employment for purpose of 2014 shared responsibility requirements



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Employer Shared Responsibility Rules

- 4980(H)(b) Employer Penalty Safe Harbors
 - Background
 - Employers face potential liability under 4980(H)(b) if the employer coverage is not affordable to an employee
 - Coverage is affordable if the employee's required contribution for self-only coverage does not exceed 9.5% of employee's household income
 - NEW DEVELOPMENT – 3 Employer Safe Harbors
 - Recognizing that employers will generally not know an employee's household income, the IRS has provided three employer safe harbors
 - As long as the employee contribution for single coverage meets one of these safe harbors, employers will not be liable for 4980(H)(b) penalty even if an employee qualifies for subsidized coverage



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Employer Shared Responsibility Rules

- 4980(H)(b) Employer Penalty Safe Harbors (cont.)
 - W-2 Safe Harbor - Employer will not be subject to penalty:
 - If the employee contribution for self-only coverage does not exceed 9.5 % of the employee's W-2 wages
 - Rate of Pay Safe Harbor - Employer will not be subject to penalty:
 - If employee's contribution for self-only coverage does not exceed 9.5% of the computed monthly rate of pay
 - Hourly rate of pay multiplied by 130 hours per month to determine a monthly "rate of pay"



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Employer Shared Responsibility Rules

- 4980(H)(b) Employer Penalty Safe Harbors (cont.)
 - Federal Poverty Level Safe Harbor
 - If the employee's cost for self-only coverage does not exceed 9.5% of the FPL for a single individual
 - 2013 monthly safe harbor contribution for self-only coverage would be anything less than \$90.96 in the lower 48 states
 - FPL is higher in Alaska and Hawaii



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Employer Shared Responsibility Rules

- 95% Rule - Margin of Error Rule
 - Background
 - Employer faces potential penalties under 4980H(a) if it fails to offer minimum essential coverage to all full-time employees.
 - IRS Notice 2011–36 announced the IRS was considering requiring coverage to “substantially all” of full-time employees
 - NEW DEVELOPMENT - Introduction of the 95% Rule
 - Employer will not be liable for 4980H(a) penalties as long as employer offers coverage to all but 5% of its full-time employees
 - Rule also applies if coverage is offered to all but 5 full-time employees if that is greater than 5%
 - Employer must intend to offer coverage to all full time employees
 - Rule alleviates employer fears that a small administrative mistake could trigger significant employer penalties



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Full Time Employees

- IRS “Measurement Period” Method of Defining Full-Time Employee
 - The IRS has introduced an optional method of defining full-time employees for the purpose of the ACA shared responsibility rules based on the use of a 3-12 month measurement period
 - Employees working an average of 30 hrs/week (or 130 hrs/month) over the measurement period must be treated as full time
- NEW DEVELOPMENT – Counting Hours of Service
 - IRS has defined an hour of service
 - Each hour an employee is paid, or entitled to payment, for the performance of duties for the employer
 - Each hour for which an employee is paid, or entitled to payment, for vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, or leave of absence.



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Full Time Employees

- NEW DEVELOPMENT – Counting Hours of Service (cont.)
 - For hourly employees, employer must calculate actual hours of service from records of hours worked and for non-worked hours for which payment is made or due (vacation, holiday, illness, incapacity, etc.)
 - For employees not paid on an hourly basis the employer must calculate hours of service using one of three methods:
 1. Counting actual hours worked and non-worked hours for which payment is due
 2. Using a days-worked equivalency method counting eight hours of service for each day for which the employee is entitled to pay
 3. Using a weeks-worked equivalency using 40 hours of service per week for each week for which the employee is entitled to pay
 - An employer is not permitted to use the days-worked or weeks-worked equivalency if the result is to substantially understate an employee's hours of service



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Full Time Employees

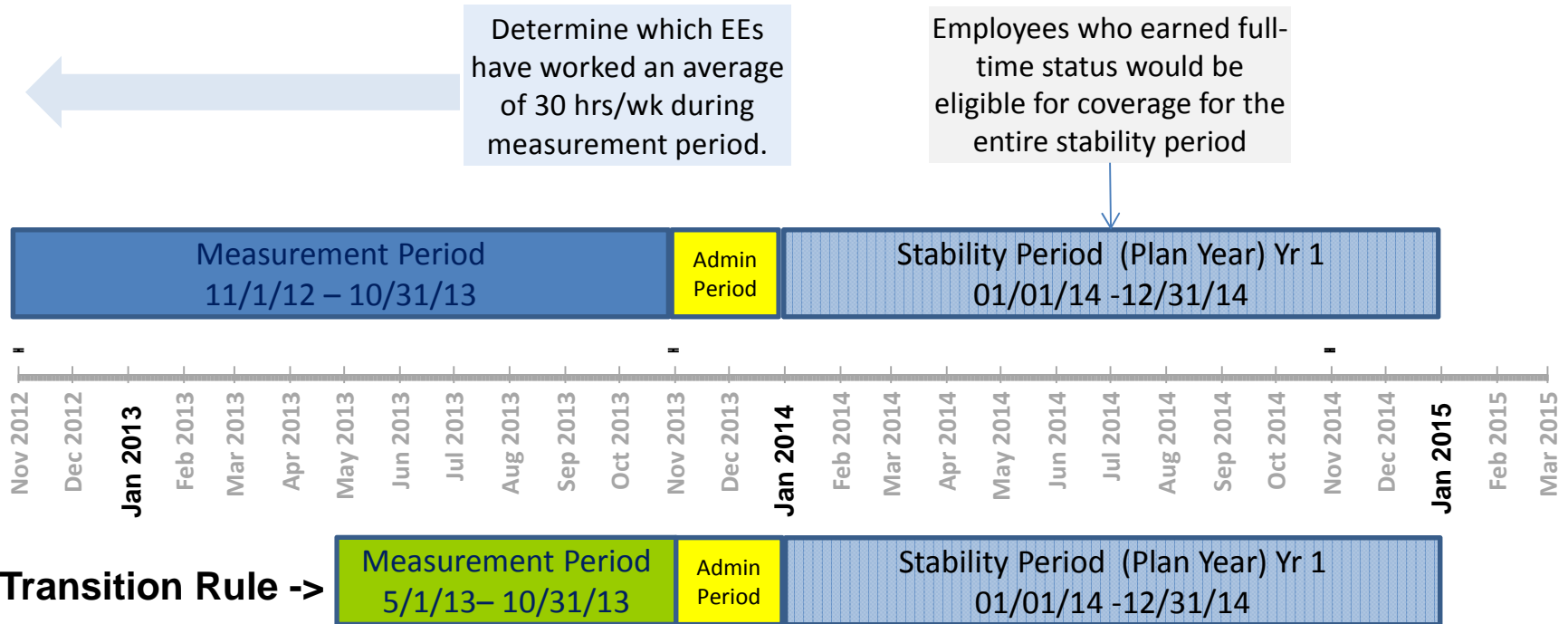
- 2013 Measurement Periods
 - Background
 - Employers choosing to use a measurement period to determine 2014 eligibility must use 2013 employment data
 - Employers wishing to use a 12 month measurement period would already be well into the period for a plan year that begins 1/1/2014
 - New Development – 2013 6-month measurement period allowed
 - Employer may use a 6 month measurement period during 2013 to determine eligibility for a longer stability period in 2014
 - Transition rule measurement period may be no shorter than 6 months and must begin prior to July 1, 2013



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



Measurement Period for 2014 Eligibility



Assumptions:

- Employer chooses 12 month periods
- Measurement Period = 11/1 – 10/31
- Stability Period = 01/01 – 12/31
(same as employer's plan year)
- 2 month Admin Period = 11/1 – 12/31



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.



ACA Regulatory Update

Assurex Global Shareholders · February 19 & 21, 2013

- Catto & Catto
- The Crichton Group
- The Daniel & Henry Co.
- Engle-Hambright & Davies
- Frenkel Benefits
- The HDH Group
- The Horton Group
- Kinney Pike Insurance
- LMC Insurance & Risk Management
- Lipscomb & Pitts Insurance
- Lyons Companies
- The McCart Group
- MJ Insurance
- Parker, Smith & Feek
- Payne West Insurance
- R&R/The Knowledge Brokers
- RCM&D
- The Rowley Agency
- Senn Dunn Insurance
- Smith Brothers Insurance
- Van Gilder Insurance
- Woodruff-Sawyer & Co.
- John L. Wortham & Son



Audio trouble? Dial 1-719-867-1571 Access Code 265313
Copies of this presentation are available through your benefits advisor.

