TAUC Leadership Conference
What Employer Health Plan Sponsors Need to Know Under the Affordable Care Act

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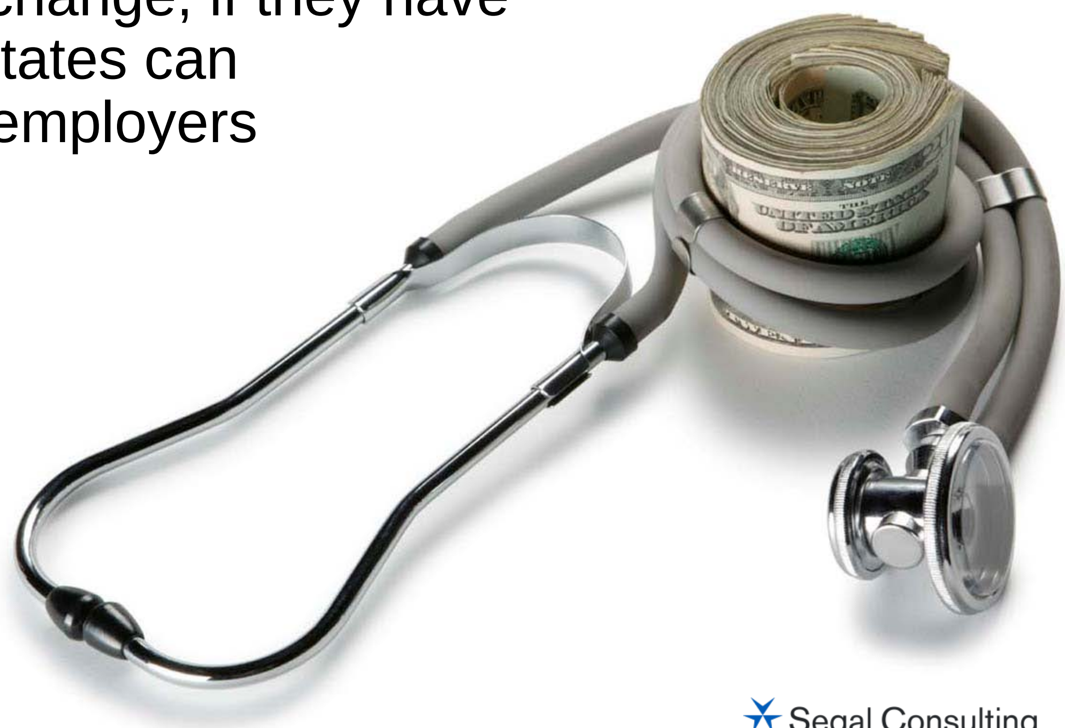
Agenda

1. What are Health Insurance Exchanges?
2. When Do Individual and Employer Penalties Apply?
3. How Does the Premium Assistance Tax Credit Work?
4. Can Exchange Modeling Help Make Sense of This?
5. How Does the 90-Day Waiting Period Work and What Employee Notices are Required?

How Exchanges Work

- Exchanges will give individuals and small businesses a new way to purchase health coverage
- Individuals can go online and select their own plan, at the level they want
- Small businesses can also purchase coverage for their employees through the Exchange, if they have 100 or fewer employees. States can open Exchanges to larger employers beginning in 2017.



Exchange Benefit Levels

Platinum: 90% of the full actuarial value

Most ME Plans target here

Gold: 80% of the full actuarial value

Silver: 70% of the full actuarial value (keyed to subsidies**)**

Bronze: 60% of the full actuarial value

Young Invincible (catastrophic plan for individuals under 30)

Individual vs. Small Business Exchanges

Two separate Exchanges but states can merge into one.

Individual Exchange

- Open to individuals who are citizens or legal immigrants
- Not open to undocumented individuals
- Buy through home state exchange
- **Federal subsidies are available to help individuals/families buy coverage**
- People who are eligible for decent, affordable coverage – for example, through a multiemployer plan – do not qualify for these subsidies

Small Business (SHOP) Exchange

- Initially, open only to small businesses
- States may allow large employers to buy beginning in 2017
- Employer buys through:
  - Exchange where employer has principal place of business, or
  - Exchanges in the states where employees have their principal worksite
- **No federal subsidies to help employees buy coverage**
- At this point, it appears that multiemployer plans cannot purchase SHOP coverage on behalf of small contributing employers

Multiemployer Plans vs. SHOP Coverage

	Typical Fund Coverage	SHOP Coverage
Self-insured and low admin costs	✓	Insured and retention charges
Benefits tailored to meet needs of workforce	✓	Off-the-shelf
Broad range of benefits (even non-health)	✓	Only medical/Rx + pediatric dental/vision
Maintains health coverage connection to local union	✓	Connection severed
Employers track hours and write one check	✓	Employers responsible for benefits coverage decisions

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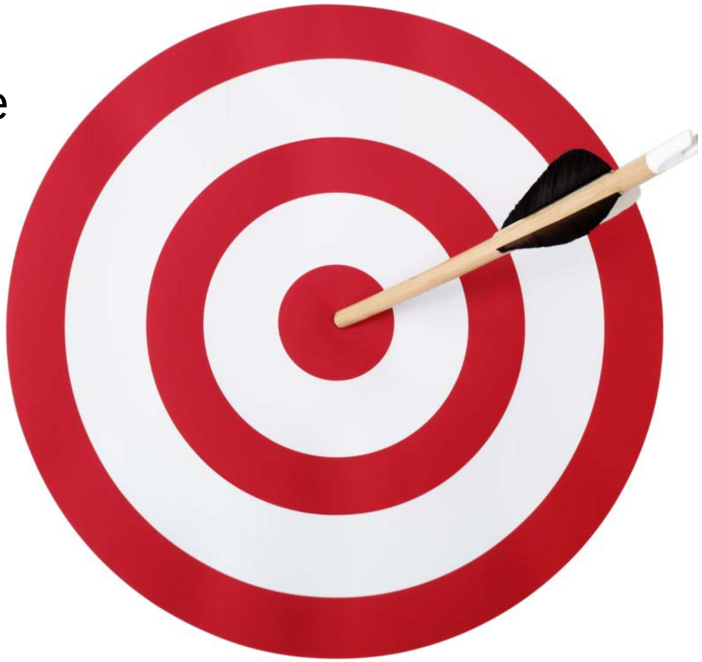
Individual Mandate

- Individuals must have *minimum essential coverage* or pay a monthly penalty
- Individual penalty accounted for as an additional amount of federal tax owed
- Penalty phases in from 2014 (greater of $95 per adult or 1% of household income) to 2016 (greater of $695 per adult or 2.5% of household income); some limits and exceptions apply

Employer Shared Responsibility Penalty

- Proposed rule on how contributing employers are affected by the **Employer Shared Responsibility Penalty** (published Jan. 2, 2013 and corrected March 15, 2013)

- Overview of **Employer Shared Responsibility Penalty**
  - Purpose is to encourage employers to continue providing health coverage
  - Applies to employers with 50 or more full-time employee equivalents
  - Will be assessed only when one full-time employee obtains subsidized coverage through one of the ACA-required health insurance Exchanges
  - Penalty calculated differently depending on whether employer offers health coverage or does not offer coverage



Multiemployer Rule through 2014

- A large contributing employer will not have to pay the penalty in 2014 if:
  - The employer is required by a collective bargaining agreement to make contributions, with respect to some or all of its employees, to a multiemployer plan,
  - The multiemployer plan offers coverage to individuals who meet the plan's eligibility conditions, and
  - The coverage is affordable and provides minimum value, and is offered to dependent children.
- Employer determines whether an employee is a full-time employee by looking at hours worked for that contributing employer (not for all contributing employers combined)
- Any penalty owed would be paid by the contributing employer, not by the plan
- Rule is a transition rule through 2014

Two Types of Penalties

- No coverage penalty (4980H(a))
  - Minimum essential coverage not offered to at least 95% of full-time employees (and dependents)
  - $2,000 x actual number of full-time employees less 30 employees
  - Triggered by one full-time employee going to the Exchange and getting premium tax credit
- Coverage offered that is not affordable or minimum value (60%) (4980H(b))
  - $3,000 x each full-time employee going to the Exchange and getting premium tax credit
  - Not affordable means employee premium for self-only coverage exceeds 9.5% of wages

Affordability

- **Special transition rule for contributing employer to measure affordability**
  - Affordable if employee's contribution for self-only coverage (if any) does not exceed 9.5% of the wages reported by the contributing employer to the multiemployer plan for that full-time employee
  - Wages may be determined based on actual wages or an hourly wage rate under the applicable bargaining agreement
- Other safe harbor measures of affordability that employers may use:
  - W-2 wages (Box 1)
  - Rate of pay (monthly rate would equal 130 hours multiplied by the employee's hourly rate of pay)
  - Federal Poverty Level for a single person (currently $11,490)

Examples of Affordable Coverage

- Participants do not contribute to cost of self-only coverage beyond the contribution made by employers on their behalf to the multiemployer plan

- Participant contribution for self-only coverage is $1091.55 or less per year (single FPL safe harbor)
  - 9.5% of $11,490 = $1,091.55

Minimum Value

- Minimum value is the 60% test: is the plan's share of total costs of benefits 60% or greater (on average)
- Three ways to measure:
  - Minimum Value (MV) Calculator (released for testing Feb. 20. 2013)
  - Design-Based Safe Harbor Checklists (not released yet)
  - Certification by Actuary if above methods not suitable due to plan design

Hours Requirements

- ACA's hours standard for full-time status is 30 hours per week or 130 hours per month
- If Fund's hours requirement is higher, some full-time employees might not qualify for coverage
- Trustees may want to consider lowering hours requirement
  - Do employees tend to work full time for one single contributing employer?
  - How likely is it that any participants would be a full-time employee with respect to a single employer?

Dependent Coverage

- Dependents must be offered coverage
- Includes children under Code Section 152(f)(1) who are under age 26 (sons, daughters, adopted sons/daughters, stepchildren and foster children)
- Coverage does not have to be offered to spouses
- **Transition Rule:** Employers that do not currently offer dependent coverage will not be subject to a penalty for the plan year that begins in 2014 if they are taking steps to offer dependent coverage

Employers with non-bargained employees

- How does penalty work for employers with both bargained and non-bargained employees?
- If multiemployer rule is met and non-bargained employees have no coverage, do multiemployer participants get counted for penalty purposes?
- Regulations are unclear about penalty on employers with non-bargained employees without coverage
  - *Under this transition rule, the applicable large employer member will not be treated, with respect to employees for whom the employer is required by the collective bargaining agreement to make contributions to the multiemployer plan, as failing to offer the opportunity to enroll in minimum essential coverage to full-time employees (and their dependents) for purposes of section 4980H(a), and will not be subject to a penalty under section 4980H(b).*

Example

Employer A has 55 full-time employees. 48 bargained employees (and their dependents) are covered under a multiemployer plan that is affordable and provides minimum value. The other 7 employees are non-bargained and have no coverage. *Is there a penalty?*

Answer:

Yes, because employer does not provide minimum essential coverage to at least 95% of its full-time employees, the no coverage penalty will apply, assuming at least 1 employee goes to an Exchange and gets a premium tax credit.

Amount of penalty is unknown. It could be 25 (55 less 30) x 2,000 = $50,000; or 7 x 2,000 = $14,000

Simplifying a Complex Process

Will an Employer Pay a Penalty beginning in 2014?

Are you a "large employer"? With at least 50 full-time equivalent workers and part-time workers [prorated] (full-time means 30 or more hours/week). Excluding seasonal workers [up to 120 days per year]

YES → Are any of your full-time employees in an exchange plan and receiving a premium assistance tax credit ("subsidy")?

NO → NO PENALTY

YES → Do you have more than 30 full-time employees?

NO → NO PENALTY

YES → Do you provide health insurance?

NO → NO PENALTY

NO → PAY OR PLAY PENALTY
Pay Monthly "No Coverage" Penalty
1/12 of $2,000 x (Number of full-time employees - 30)

YES → FREE RIDER (SHARED RESPONSIBILITY) PENALTY
Pay Monthly Penalty, the lesser of:

1/12 of $2,000 x (Number of full-time employees – 30)

OR

1/12 of $3,000 x (Number of full-time employees who receive premium subsidy for exchange coverage)

Source: Congressional Research Service (CRS) analysis of P.L. 111–148 and P.L. 111–152.

Employer Penalty
Key Action Items

- ☑ Calculate minimum value
- ☑ If there are participant contributions for self-only coverage, assess affordability using safe harbors
- ☑ Review dependent eligibility rules and contribution strategies
- ☑ Review current hours requirements for consistency with 30 hours per week/130 hours per month standard
- ☑ Comply with 90-day waiting period rules

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Premium Assistance Tax Credit
What it is and why it's important

- Money from the federal government that goes to insurance companies to subsidize coverage for lower-income individuals in the state-based Exchanges
- Potentially more than 50% of U.S. households could qualify (based on Bureau of Labor Statistics (BLS) estimates)
- Depending on the income, age and family size, the subsidy can be substantial

The premium assistance tax credit is called the "subsidy."

The Core Issues

- Multiemployer plans cannot collect the subsidy on behalf of eligible participants
- The subsidy is not available to workers with decent, affordable coverage—including the kind offered by multiemployer plans

Premium Assistance Tax Credit

The premium assistance tax credit is based on:

- The premium cost of the second-lowest-cost silver plan offered through an Exchange, and
- The household income level of the applicant

Household Income Level (% above FPL)	Maximum Premium as Percentage of Income
Less than 133%	2.0%
At least 133% but less than 150%	3.0% – 4.0%
At least 150% but less than 200%	4.0% – 6.3%
At least 200% but less than 250%	6.3% – 8.05%
At least 250% but less than 300%	8.05% – 9.5%
At least 300% but less than 400%	9.5%

Poverty Guidelines

2014 ESTIMATED* POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Persons in Family	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

* 2014 estimate based on 2012 levels increased by 2.5% per year.

Purchasing Subsidized Exchange Coverage

Example:

- Family of four purchasing coverage in an Individual Exchange:
  - Modified Adjusted Gross Income—$60,543
  - Federal Poverty Level—250%
  - Family Share of Premium—8.05%
  - Annual Cost of Second Lowest Silver Plan-$12,000
  - Annual Premium **Max**—$4,874
  - Premium Assistance Tax Credit—$7,126

$12,000 = Cost

- 4,874 = Max Family Share

$7,126 = Subsidy

Sample Exchange Premiums

Plan Tier	If Total Annual Premium =	Annual Subsidy	Annual Family Premium
Platinum	**$19,200**	**$7,126**	**$12,074**
Gold	**$16,800**	**$7,126**	**$9,674**
Silver (high)	$14,400	$7,126	$7,274
Silver (2nd lowest cost)	**$12,000**	**$7,126**	**$4,874**
Silver (low)	$10,800	$7,126	$3,674
Bronze	$9,600	$7,126	$2,474

Purchasing Subsidized Exchange Coverage

Example:

- Single worker purchasing coverage in an Individual Exchange:
  - Modified Adjusted Gross Income—$60,543
  - Federal Poverty Level—over 400%
  - His Share of Premium—100%
  - Premium Assistance Tax Credit—$0

He pays the full cost of the coverage and will pay more for gold or platinum than for silver.

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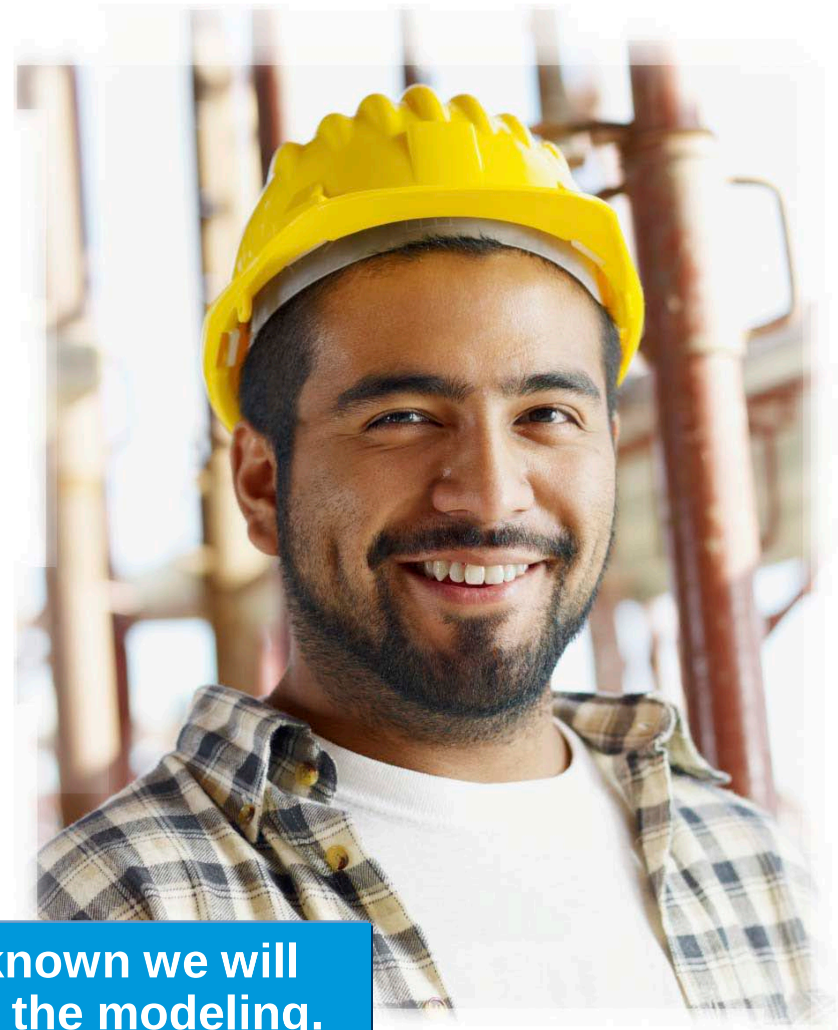
A Work in Progress

- Modeling assumes the current law
- Many unknowns about how the law will be interpreted, implemented and enforced
- Many unknowns related to the Exchanges, how they will operate, and how they will affect the health insurance marketplace
- Approach and assumptions based on what we know



As more becomes known we will fine-tune and update the modeling.

Assumptions for Illustration

- Fund Size: 4,100 employees
- Full Time: 100%
- Actuarial Value of Plan: 89%
- Average Age: 45
- Percent Single Coverage: 35%
- Average Household Income: $40,000, $60,000 or $80,000
- Average Wage: approx. 80% of household income

Exchange Math
Illustrative Funds—Larger Employers

Average Household Income	$40,000	$60,000	$80,000
Average FPL	233%	349%	465%
Projected Plan Cost (Medical/Rx)	$50,000,000	$50,000,000	$50,000,000
Cost of Financing Current Benefits Via the Exchange			
Silver Plan Premiums	$12,700,000	$23,900,000	$29,900,000
Cost to Buy up to Current Plan from Silver	10,300,000	14,800,000	16,100,000
Income Taxes and Payroll Taxes on Increased Wages	7,900,000	15,300,000	19,200,000
Employer Penalty	8,200,000	8,200,000	8,200,000
Total	$39,100,000	$62,200,000	$73,400,000
Gain / (Loss) to Finance Current Benefits via Exchange	$10,900,000	$(12,200,000)	$(23,400,000)
Percent Gain / (Loss)	21.8%	(24.4%)	(46.8%)

Exchange Math
Illustrative Funds—Smaller Employers

Average Household Income	$40,000	$60,000	$80,000
Average FPL	233%	349%	465%
Projected Plan Cost (Medical/Rx)	$50,000,000	$50,000,000	$50,000,000
Cost of Financing Current Benefits Via the Exchange			
Silver Plan Premiums	$12,700,000	$23,900,000	$29,900,000
Cost to Buy up to Current Plan from Silver	10,300,000	14,800,000	16,100,000
Income Taxes and Payroll Taxes on Increased Wages	7,900,000	15,300,000	19,200,000
Employer Penalty	—	—	—
Total	$30,900,000	$54,000,000	$65,200,000
Gain / (Loss) to Finance Current Benefits via Exchange	$19,100,000	$(4,000,000)	$(15,200,000)
Percent Gain / (Loss)	38.2%	(8.0%)	(30.4%)

Modeling
What You Can Learn

- An estimate of household income and why it is critically important
- The difference between tax credits for single vs. family coverage
- The impact of the plan costs
- The relationship of the plan's actuarial value to the silver plan
- The characteristics of participants and the impact of those characteristics on the value of the subsidy
- The significance of employer size
- The sensitivity of the results to these various characteristics

Exchange Purchasing Will Be Complicated

- Members will have to make decisions about which insurance company to use, level of coverage, plan design, and network coverage
- Exchange plans may be more expensive for comparable coverage to pay for insurance company overhead and profits
- Political and economic pressures may mean changes to the law (e.g., subsidies being lowered and employer penalties could be increased)
- Some members will pay more and some will pay less for the same coverage depending on household income, family size and age
- Members will have to use after-tax dollars to pay premiums for coverage

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Ban on Waiting Period of More than 90 Days

For All Plans (grandfathered and non-grandfathered), beginning with plan year on/after January 1, 2014:

- Proposed rule applicable through at least 2014 published March 21, 2013
- Waiting period is the time period that must pass before coverage for an employee or dependent *who is otherwise eligible to enroll* becomes effective
- Rule doesn't require coverage for someone not eligible under the terms of the plan
- Under proposed rule, 90 days means 90 calendar days, not three months

90-Day Waiting Period: General Rules

1. "Variable hour employees": those who need to work specified number of hours **over a period of time** to be eligible for coverage, and it cannot reasonably be determined at start date if hours requirement will be met
   - Plan sponsor can take up to one year to determine if eligible for coverage, provided coverage is effective (if eligible) no later than 13 months (plus fraction) from employee's start date, and
   - If plan sponsor uses a shorter measurement period (i.e., less than one year), any waiting period after the measurement period cannot exceed 90 calendar days

2. Cumulative service requirement (up to 1,200 hours):
   - Set number of hours without a time limit during which hours must be worked
   - Plan may require employees to complete up to 1,200 hours of service in order to become eligible, provided coverage is effective no later than 91st day after hours requirement met

3. Eligibility requirements based on earnings/residuals are allowed

Notice/Reporting Requirements

- Employers must provide notice to employees of the following:
  - The existence of the state-based Exchange
  - Services offered by the Exchange
  - How to enroll/request information
  - If employer's coverage is unaffordable, the fact that a tax subsidy may be available to purchase exchange coverage
- Not clear how this will affect contributing employers or multiemployer plans
- Notice delayed until late summer or fall to coincide with Exchange open enrollment (October 1, 2013 – March 31, 2014)

Notice/Reporting Requirements Applicable to Large Employers

- Report to IRS beginning in 2015 regarding coverage options offered to all full-time employees in 2014:
  - Employer information
  - Whether minimum essential coverage is offered
  - The length of the waiting period
  - The months during the year that it was offered
  - Monthly premium for the lowest cost option in each enrollment category
  - Employer’s share of the total allowed costs of benefits
  - The number of full-time employees each month
  - Name, address, and TIN of each full-time employee during the year and the months during year covered under plan
- Notices also provided to full-time employees by January 31 of the year following the year in which employer files the IRS return

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