

# “How much more will Healthcare Reform COST MY BUSINESS”

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LeadingAge Arizona  
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# What Happened?

- In March 2010, Congress passed and the President signed health reform in:
  - The Patient Protection and Affordable Care Act
  - The Health Care and Education Affordability Reconciliation Act of 2010.
    - ◇ Increases **access** to health coverage
    - ◇ Aims to **reduce costs** via payment reductions and focus on wellness and prevention
    - ◇ Seeks to reward “**value-based**” care delivery
- Since passage, numerous additional laws have been passed amending portions of original laws, and rules/guidance issued.



## Impact of the Act:

- Cost: = \$940 billion/ 10 yrs
- Coverage = 32+ million by 2019

# Is Health Reform Here to Stay?

- **Congressional Repeal of Health Reform**
  - House passed, Senate said, “No”
  - Death by a thousand cuts or repeals of pieces of reform
    - ◇ Repeals as of April 2011: 1099s, Free choice vouchers
- **The Courts - Litigation Challenges to Reform**
  - Three district courts upheld, two courts say unconstitutional
  - Appellate court action:
    - ◇ 4<sup>th</sup> Circuit: Threw out both cases
    - ◇ 6<sup>th</sup> and DC circuit: Upheld law
    - ◇ 11<sup>th</sup> Circuit: Mandate unconstitutional but rest of law stands
  - Supreme Court: **See next slide on update**
- **Administrative Agencies' Action**
  - Issuing rules and guidance on both employer and provider initiatives

# Supreme Court Action

- Hearings on the constitutionality of health reform held March 26-28
- Ruling anticipated in June 2012
- Issues under review
  - Individual mandate
  - Anti-Injunction
  - Medicaid Expansion
  - Constitutionality of the whole law

# Reform Summary Timeline

- *High risk insurance pools established.*
- *Small business tax credits for offering employee health insurance established*
- *Insurers can no longer deny coverage to children for pre-existing conditions.*

2010

- *New group and individual plans required to cover preventive services at 100%.*
- *Dependents coverage expanded to age 26.*
- *Annual review of insurance premium increases effective.*
- *Grandfathered plan notification requirements.*

- *Increased penalty on non-medical distributions from HSAs.*
- *Insurance administrative simplification begins.*
- *Medical loss ratios become effective for small group and individual plans.*

2011

- *New simple cafeteria plans available to small businesses*
- *Workplace wellness program grants available for small employers*
- *Annual fees assessed on pharmaceutical companies.*
- *Application of non-discrimination regulations to fully-insured plans.*
- *OTCs no longer reimbursable under various health spending accounts*

- *Employers to disclose health insurance benefits on W-2s.*
- *CLASS Act: National voluntary LTC insurance program established.*

2012

- *Health plans to pay per participant fee to pay for Comparative Effectiveness Research.*

# Reform Summary Timeline *(cont'd)*

- *Large employers disclose health insurance benefits on W-2s*
- *Health insurers required to begin following administrative simplification regulations.*
- *Limits placed on flexible spending accounts.*
- *New 3.8% Medicare Tax for Unearned Income .*

2013

- *Medicare Earned Income Tax Increases to 2.35% for higher income earners.*
- *Employer tax deduction for Part D subsidies eliminated.*
- *Insurance Exchange open enrollment begins*

- *State insurance exchanges operational.*
- *Individual penalties imposed for failure to obtain health insurance coverage.*
- *Insurance industry pays fees based on market share.*
- *Insurers prohibited from restricting coverage and imposing benefit limits.*

2014

- *Employer "shared responsibility" penalties imposed.*
- *Small employers to begin reporting health benefits on W2s.*
- *Large employers to begin auto-enrolling FT employees into health insurance plan.*
- *Insurers must guarantee issue and renew plans*

- *Large employers may be able to offer Exchange plan as employer-sponsored coverage (2017)*
- *Excise tax imposed on "Cadillac" health plans (2018)*

2015 - 2018

# 2012 : W-2 Disclosure of Health Coverage Cost

- IRS delayed W-2 disclosure employer-provided health benefits costs for 2011 [IRC Sec. 6051(a)]
  - Includes medical insurance, dental and vision plans(unless separate plans), and self-insured arrangements
  - No reporting for employee salary-reduction FSAs or employer HSA or Archer MSA funding
  - Include family coverage amount, if applicable
- Reporting begins for most employers for 2012 expenses

# 2012: W-2 Disclosure of Health Coverage Cost

- W-2 reporting of health care costs applies to W-2s issued for 2012 benefits.
- **Small Employers –fewer than 250 W-2s in 2011**
  - Disclosure is optional for 2012 and until further guidance is issued, at least until January 2014.

## Additional Resources

- **Interim implementation guidance:** IRS Notices 2011-28: <http://www.irs.gov/pub/irs-drop/n-11-28.pdf>
- **2011 W-2 form:** <http://www.irs.gov/pub/irs-pdf/fw2.pdf>



# Pending Implementation: Fully-insured plans can no longer discriminate

- Expands the nondiscrimination rules to cover fully-insured group health plans (IRS Code Section 105(h), which already applies to self-insured)
  - Also includes HRAs or stand-alone Medical Reimbursement Plans (MRPs)
  - Affects non-grandfathered plans for plan years beginning on or after 9/23/10
- **Penalties**
  - An employer who sponsors a discriminatory insured group health plan will be subject to an excise tax liability of **\$100 per day per employee affected with a maximum penalty of \$500,000**
- As of 12/27/2010, compliance has been **delayed** until guidance/ rules issued
- Additional comment period on proposed guidance closed 3/11/11
  - See IRS Notice 2011-1

# Health Plan Fees/Taxes

## Comparative Effectiveness Research Plan Fee (2012)

- Effective for plan years ending after 9-30-2012, health insurance and self-insured plans must pay a per participant fee
  - If self-insured, employer pays fee.
- Fee
  - Year 1: \$1/participant
  - Year 2: \$2/participant
  - 2014: Inflation adjusted rate
  - 9/30/2019: Phased out

**IRS Notice 2011-35:** Proposed guidance, seeking comment

## Cadillac Plan Tax (2018)

- 40% excise tax assessed on health insurer or plan administrator offering “high-cost” health coverage
  - “High cost” = annual premium > \$10,200 single coverage or \$27,500 family coverage

# 2013: Contribution Limits on Flexible Spending Accounts

- Places an annual limit on employee's FSA contributions to \$2,500.
  - Current law imposes no limit.
  - The limit will be indexed for inflation beginning in 2013.
- This contribution limit does not impact Dependent Care FSAs. Contributions to Dependent Care FSAs will continue to be subject to a \$5,000 per year limit.

# 2014: Auto-enrollment for Large Employers

- Employers with 200+ FT employees will be required to auto-enroll employees into their employer-sponsored health plan
  - Employees can opt out
- Originally, effective January 1, 2011, implementation is delayed until U.S. Dept. of Labor issues rules expected prior to 2014 – (may not happen by 2014 based on discussions ongoing currently)
  - Definition of full-time employee
  - Clarity around which plan to enroll employee into if multiple plans offered
  - Specifics on opt-out notification

# 2014: Individual Mandate

- **Individual mandate to obtain health coverage:** Beginning in 2014, most individuals must obtain a minimum-level of health insurance coverage or pay a penalty
- **Minimum essential coverage includes:**
  - Medicare, Medicaid, TRICARE
  - Insurance purchased through an Exchange, on the individual market
  - Employer-sponsored coverage that is affordable & provides minimum value
  - Grandfathered plans (group plan in effect on 3/23/2010)
- **Penalties for failure to obtain coverage:**
  - In 2014: greater of \$95 or 1.0% of income
  - In 2015: greater of \$325 or 2.0% of income
  - In 2016: greater of \$695 or 2.5% of income
  - Penalty is capped at three times the per person amount for a family
  - Assessed penalty for dependents is half the individual rate

**Hardship exemption**  
Premium cost for  
lowest cost plan > 8%  
of Household Income

# 2014: Government assistance to help some individuals obtain coverage

- **Medicaid expansion:** Expands eligibility to individuals and families up to 133 % of the federal poverty level (FPL)
  - If cost effective, states can opt to subsidize employer-sponsored premiums for this group
- **Premium and cost share assistance:**
  - Individuals and families with household income of 100 - 400 % FPL may be eligible for sliding-scale assistance in the form of:
    - ◇ Tax credits to help pay premiums; and
    - ◇ Out-of-pocket reductions to help with cost sharing (e.g., co-payments and co-insurance)

**133% FPL**  
Individual =  
\$14,484  
Family of 4 =  
\$29,726

**400% FPL:**  
Individual=  
\$43,560  
Family of 4=  
\$89,400

# 2014: State Health Insurance Exchanges

## What is an exchange?

A marketplace for individuals and small businesses to shop for insurance.

- Offer a choice of health plans
- Standardize health plan options
- Allow consumers to compare plans based upon price
- Intended to provide a more competitive market
- Provides consumers with a neutral party to assist with plan enrollment, information and eligibility determination for any subsidies

## Who can participate?

- **In 2014, small employers** can offer an Exchange plan as their employer health plan
- **Individuals:** Includes self-employed or unemployed individuals (2014)
- In 2017, states can allow **large employers** to participate
- Each state must establish a health insurance **exchange**
- HHS Secretary to establish the rules around exchanges

<https://exchange.wisconsin.gov/>

# 2014: Exchange Plans

## Types of exchange plans to be offered by insurers

- **Bronze** = 60% actuarial value (lower fixed cost premium but higher risk for actual claims)
- **Silver** = 70% actuarial value
- **Gold** = 80% actuarial value
- **Platinum** = 90% actuarial value (higher fixed cost premium but lower risk for actual claims)
- **Catastrophic plan**
  - ◇ Only available to individuals **less than 30 yrs old**, or those exempted from the individual mandate due to unaffordability or hardship. (The “Invincible’s”)
  - ◇ Plan must cover:
    - “minimum essential benefits”
    - a minimum of **three primary care visits per year**
- All exchange “metal” plans **must** cover essential health benefits, limit cost-sharing and have a specified actuarial value



# 2014: Potential Large Employer Penalties

## Law does NOT require employers to offer health insurance

- Beginning in 2014, employers with 50+ FTEs must pay a “shared responsibility” penalty if any FT employee receives Exchange subsidies
  - Different penalties whether or not employer offers affordable, “**minimum essential coverage**” to employees
  - **Minimum essential coverage** = Plan with 60% actuarial value
  - **Affordable** = Employee premium cost < 9.5% of household income

**FTE** = FT employees  
+ **FT** equivalents

**FT employee** =  
works avg. 30 or  
more hours per  
week

**FT equivalents** =  
Hours worked in a  
month by all PT  
employees divided  
by 120

# Employer “shared responsibility” penalty

Penalty only assessed if a FT employee receives Exchange subsidies.

- **No or Inadequate Insurance Penalty**
  - \$2000 x each full-time worker (after first 30 workers)
- **Unaffordable Employer Coverage Penalty**
  - At least, \$3000 x # of full-time employees who receive exchange subsidies
  - Maximum penalty = \$2000 x each full-time employee (except for first 30 full-time workers) penalty
  - No penalty for Medicaid eligible employees

*Employees are not eligible for Exchange subsidies if their employer coverage is deemed “affordable”*

“**Affordable**” means the employee premium contribution under the employer plan is **less than** 9.5% of their household income

# Key Provisions of Aug. 12 Proposed Rules

- **Affordability for Employee:** If employee's premium cost for self-only coverage is less than 9.5% of their W-2 wages for the employer, the health insurance is considered affordable even if they have a family and take family coverage
  - It appears that if coverage is affordable for employee but not their family, the employer will not pay a penalty.
  - Employer's not subject to penalty if employee receives tax credit but later employer-sponsored insurance is determined to be affordable.
  - **Affordability for related individuals:** For premium tax credits eligibility = cost of self-only coverage related to household income; for the individual mandate penalty = family coverage premiums in proportion to household income.
- **Must file tax return:** All individuals receiving an advanced premium assistance tax credit must file an income tax return, regardless if they are otherwise required to file.

# Key Future Anticipated Regulations

- Anticipated to provide employer **safe harbor** from penalty assessment if they meet certain requirements.
- Employer large group plans will not be required to cover all of the essential benefits or 10 categories of benefits.
- May provide some transition relief with respect to meeting the “minimum value” requirement for plans. (Potential for a phase in to the 60% requirement (Bronze Medal) rather than hard cut on 1/1/14)

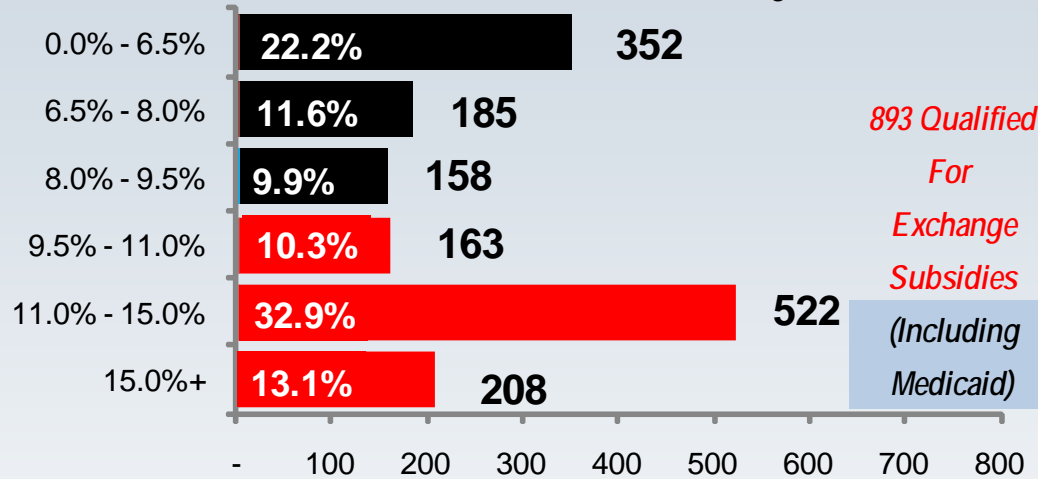
**CLIFTONLARSONALLEN  
HEALTH INSURANCE &  
PENALTY (HIP) CALCULATOR**

# Employer Health Insurance & Penalty (HIP) Costs

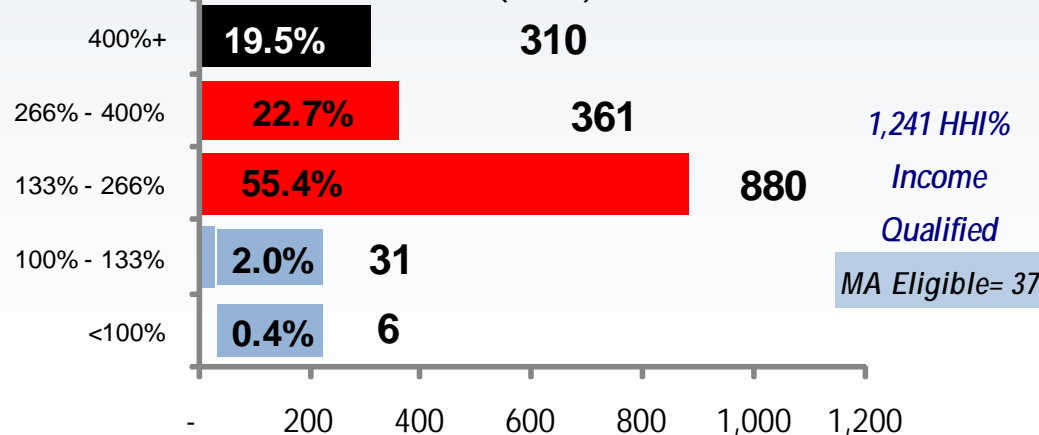
				HEALTH REFORM SUBSIDIES IMPACT ON HEALTH COSTS			
		Full-Time Employees		Sample Organization	Today's	2014 Offer	2014 Drop/
		Total Staffed		(\$000s)	Cost	Coverage	Don't Offer
2014 PPACA FTEs	2,204	1,588	(711 Insured / 877 Waived)	Baseline Premium Cost	\$ 5,575	\$ 5,575	\$ 5,575
<b>HEALTH REFORM KEY DRIVERS</b>				2012-2014 Premium Increase (9.0% / Yr)	-	1,645	1,645
<b>Today's Single Coverage Employer Premium Cost</b>				Pre-Reform Projected Premium Cost	5,575	7,220	7,220
Average Single Employer Cost	\$ 6,840			Tax Adjusted Premium Costs	3,624	4,693	4,693
Employer Contribution %	77%			<b>PLUS: Additional Reform Impact</b>			
<b>Medicaid Eligible Employees</b>				Previously Waived FT Employees	-	7,733	-
Total FT Medicaid Enrollees	37			Change in Employer contribution	-	-	-
Employer Estimated Cost Savings	\$ 292	(\$000s)		Penalty: Subsidy Eligibles & ESI	-	2,568	-
<b>Employer Unaffordable Coverage Penalty</b>				Health Reform Increased Cost	-	10,301	-
Subsidy Eligible Full-Time Employees	856			<b>LESS: Previous Premium Liabilities</b>			
Subsidy (\$3,000)	\$ 3			Medicaid Employee ESI	-	(292)	-
Estimated Subsidy Penalty	\$ 2,568	(\$000s)		Subsidy Eligible FT Employees ESI	-	(7,582)	-
% Total Full-Time Employees	53.9%			Health Reform Decreased Cost	-	(7,874)	-
<b>Employer No ESI Insurance Penalty</b>				No Minimal Essential Coverage			
Total Full-Time Employees	1,588			Less: 2014 Inflation Adjusted HC Cost	-	-	(7,220)
Less: 30 Employees	(30)			Plus: Subsidy Eligible Penalty	-	-	3,116
Adjusted Full-Time Employees	1,558			Health Reform No ESI Cost	-	-	(4,104)
No Insurance Penalty (\$2,000)	\$ 2			Post Reform HC Costs	\$ 5,575	\$ 9,647	3,116
Estimated Subsidy Penalty	\$ 3,116	(\$000s)		HC Cost Change to 2014 Projected		\$ 2,427	\$ (4,104)
2014 Pre Reform Projected HC Costs	\$ 7,220	(\$000s)		% HC Cost Change to 2014 Projected		34%	-57%
Estimated Net Savings	\$ 4,104	(\$000s)		Tax Adjusted HC Costs	\$ 3,624	\$ 7,169	3,116

# Employee Exchange Subsidy Eligibility Factors

## Health Insurance Affordability



## Household Income (HHI) % Above FPL



Exchange Subsidy Eligibility =

Affordability

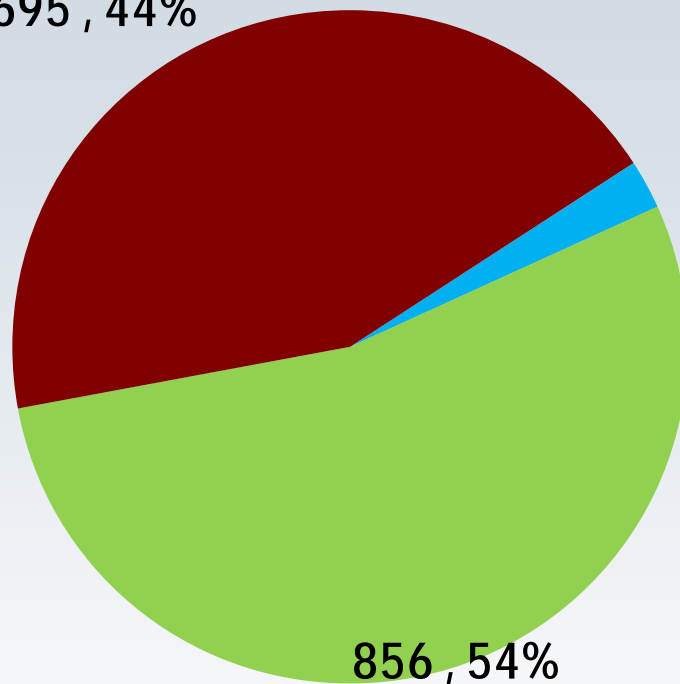
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133-400% of FPL

In 2014, employer pays penalty when a FT employee is eligible for Exchange Subsidy.

# 2014 Coverage Breakdown

Post Reform ESI 695, 44%  
FT Employee  
Insurance Mix



- Medicaid Eligible
- Subsidy Eligible
- ESI Coverage

***We estimate 56% of your full-time employees will be eligible for either Exchange subsidies or Medicaid, and that 44% will enroll in the ESI.***



# Average Premium Cost Per Employee Perspective

# Resources

- For updated guidance, proposed rules and other information about PPACA implementation issues:  
<http://www.irs.gov/newsroom/article/0,,id=220809,00.html>
- Proposed rule on the Health Insurance Premium Tax Credit:  
<http://www.gpo.gov/fdsys/pkg/FR-2011-08-17/pdf/2011-20728.pdf>

# Health Insurance and Penalty (HIP) Calculator

**HEALTH CARE REFORM**

**HOW MUCH MORE WILL HEALTH REFORM COST MY BUSINESS?**

**Find Out**

**2011** **2012** **2013** **2014**

[www.larsonallen.com/HIP](http://www.larsonallen.com/HIP)

# Questions?

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## Thank You!



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