



Overview of the Affordable Care, Updates, and the Potential Future

Presented by:

Artie Fillastre
Chief Financial Officer



ACA Reporting Requirements

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- All Individuals must obtain minimum essential coverage or pay a penalty
- Employers must offer minimum essential coverage.
- Applicable Large Employers (ALEs) provide statements to full-time employees and file information returns with the IRS about the health insurance coverage the employer offered.

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Definitions

- Affordable Cost Coverage
 - If the lowest cost self-only health plan is 9.5% or less of your full-time employee's household income, the income is considered affordable.
 - Available Safe Harbors: An employee's monthly contribution for self-only coverage is affordable if it does not exceed:
 - » Form W-2: 9.5 percent of W-2 wages for the calendar year
 - » Rate of Pay: 9.5 percent of monthly wages (hourly rate of pay times 130 hours)
 - » Federal Poverty Line (FPL): 9.5 percent of the FPL for a single individual (\$93 per month in 2015)

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Definitions

- A full-time employee (FTE) is one who works an average of 30 hours per week or 130 hours per calendar month.
- A plan must meet Minimum Value standards (the plan's share of the total allowed cost of benefits must be at least 60% of those costs) and be considered "affordable."

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Definitions

- Clarification of “hour of service” definition
 - An employee on short-term or long-term disability must be credited with hours if the employee is receiving payments while on disability leave.
 - Does not matter whether the disability program is insured or self-funded.
 - But if coverage is paid with after-tax wages, then no hours of service have to be credited.
 - No “hours of service” if payment is for legally required worker’s compensation or unemployment or disability insurance.
 - No hours of service for payments solely related to medical expense reimbursements.

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Reporting by Applicable Large Employers

- Requirement: Applicable Large Employers (ALE) must provide statements to full-time employees and file information returns with the IRS.
- Purpose:
 - Assist the IRS to manage employer shared responsibility requirements
 - Determine eligibility for a premium tax credit
- Forms: Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, and Form 1095-C, Employer-Provided Health Insurance Offer and Coverage

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Reporting by Health Coverage Providers

- Requirement: Provider of minimum essential coverage must provide statements to covered individuals and file information returns with the IRS.
- Purpose: Assist IRS to manage the individual requirements
- Forms:
 - For health insurers and small employers with self-insured coverage – Forms 1095-B/1094-B (the “B” series)
 - For ALEs with self-insured coverage – Form 1095-C (Part III) and Form 1094-C (transmittal) (the “C” series)

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Changes to the Affordable Care Act

A. Full Implementation of the Employer Mandate

ACA does not mandate that employers provide health care.

However, if they do not, they may be subject to monetary penalties.

IRS Code section 4980H requires an Applicable Large Employer (ALE) to offer health care coverage to full-time employees or be liable for a substantial “Assessable payment” if it fails to offer the opportunity to enroll in “minimum essential coverage under an eligible employer-sponsored plan.”

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Changes to the Affordable Care Act

1. Changes to the employer mandate
 - 2015 coverage requirements: Businesses with 100 or more full time employees or full-time equivalents had to offer at least 70% of full time employees insurance to avoid penalties.
 - 2016 changes to coverage requirements: Businesses with at least 50 full time employees or full-time equivalents must offer at least 95% of full time employees insurance to avoid penalties.

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Changes to the Affordable Care Act

2. Changes to the definition of “affordability” requirements
 - 2015 affordability requirements: The plan is affordable if the self-only coverage health care plan costs no more than 9.5% of an employee’s total household income.
 - 2016 affordability requirements: The threshold of affordability for the plan has been raised to 9.66% of the employee’s total household income

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Changes to the Affordable Care Act

3. Employer mandate penalty changes

Employers can be penalized for not providing minimum essential coverage or for having an inadequate health plan. Employers that offer health coverage will not meet the requirements if the following occurs:

- at least one full-time employee obtains a premium credit in an exchange plan, and
- the plan does not provide minimum essential benefits; the employee's required contribution for self-only coverage exceeds the specified percent of the employee's household income; the employer pays for less than 60 percent of the benefits.

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Changes to the Affordable Care Act

4. Minimum essential coverage penalty changes (4980H (a))

Minimum essential coverage penalties are found in section 4980H(a), which defines the penalty for an employer failing to meet requirements of "minimum essential coverage."

- 2015 penalty: \$2,080 x number of FTEs in excess of 80 employees
- 2016 penalty: \$2,160 x number of FTEs in excess of 30 employees

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Changes to the Affordable Care Act

5. Inadequate health care plan changes (4980H(b))

Section 4980H(b) provides for a different penalty for employers who offer minimum essential coverage that does not meet the federal requirements of Minimum Value and Affordability.

- Minimum value: the employer health coverage offered did not provide "minimum value" (the plan's share of the total allowed costs of benefits provided under the plan is not at least 60% of those costs)
- Affordability: the employer health coverage offered was "unaffordable"; or the employee was not among the 95% (70% in 2015) of full-time employees offered coverage.

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Changes to the Affordable Care Act

5. Inadequate health care plan changes (4980H(b))

Under 4980H(b), the penalty incurred is the lesser of either of these two conditions:

- What the 4980H(a) penalty would have been had it been levied \$2,080 in 2015/ \$2,160 in 2016 multiplied by the number of each full-time employee in excess of 30 (80 in 2015)) or
- \$3,120 in 2015 and \$3,240 in 2016 per full-time employee who procures coverage from a health insurance exchange who receives a premium tax credit to enable him or her to purchase coverage through the health insurance exchanges.

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Changes to the Affordable Care Act

B. Reporting requirements and penalties

The ACA requires employers and/or health insurance issuers to report to the IRS information about employer-sponsored health coverage. Reporting requirements and penalties have changed from 2015 to 2016.

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Changes to the Affordable Care Act

1. Changes in reporting dates

- 2015: Deadlines were extended with some relief on penalties.
- 2016:
 - Form 1095-B or 1095-C to individuals by March 2, 2017
 - File with IRS by Paper by February 28, 2017
 - File Electronically with IRS by March 31, 2017

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Changes to the Affordable Care Act

2. Penalties for applicable large employers

May be penalized for:

- failing to timely file or furnish a statement or failing to
- provide correct or complete statement
 - 2015: Information return & Payee Statement
\$100 for each failed return not to exceed \$1,500,000
 - 2016: Information return & Payee Statements
\$260 for each failed return not to exceed \$3,000,000

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Changes to the Affordable Care Act

2. Penalties for applicable large employers (cont.)

Penalties waivers

- Failure was due to a reasonable cause

OR

- The minimum of failures are timely corrected
 - Corrections made by August 1st of the filing year
(November 1st for 2016)

AND

- The total numbers of failed returns do not exceed
 - » 10 information returns
 - » ½ or 1% of the total number of returns required to file

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 **Changes to the Affordable Care Act**

C. Delay in Cadillac tax until 2020

The “[Cadillac tax](#)” is a 40% excise tax on the cost of health coverage that exceeds pre-determined threshold amounts and is imposed on coverage providers high-premium health insurance plans.

This cost of health coverage includes:

- plans costing more than \$10,200 for individual and plans costing more than \$27,500 for family coverage.
- This tax is calculated on a monthly and per-person basis, where any plan above \$850 per month for single coverage and \$2,292 per month for family coverage is subject to it.

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 **Changes to the Affordable Care Act**

C. Delay in Cadillac tax until 2020 (cont.)

- Issues with the excise tax
- IRS may not have enough feedback to promulgate proposed regulations.
- Concerns that potentially 75% of employee health plans could be subject to the tax by 2029.
- The 2016 Consolidated Appropriations Act delayed implementation from 2018 to January 1, 2020.

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Reporting Challenges

- System limitations
- Vendor support
- Conflicting/confusing guidance
 - From third party vendors
 - Due to revisions to IRS instructions
- TIN/SSN mismatches
- Coordination between plan and participating employers

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Considerations to Improve

- Start sooner
 - Statements must be furnished to individuals by March 2nd
 - Forms must be filed with IRS by March 31 (February 28 if filing by paper)
- Re-evaluate vendor selection
- Develop internal process for identifying errors
- Follow TIN solicitation process outlined in Notice 2015-68
- Re-evaluate/formalize process of coordinating information between plan and participating employers if necessary

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Future Possibilities

- President Elect, Donald Trump states that he will:
 - Request that Congress immediately deliver a full repeal of Obamacare.
 - Work with Congress on a series of reforms ready for implementation that follow free market principles.

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Future Possibilities

- Allow full competition in the health insurance market
- Allow individuals to deduct insurance premiums from their tax returns
- Price transparency from all health providers
- Block-grant Medicaid to the states.
- Remove barriers to entry into free markets for drug providers that offer safe, reliable and cheaper products