ACA Regulatory Update

Aug. 28, 2014

Assurex GLOBAL

ACA Regulatory Update

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

ACA Regulatory Update

Aug. 28, 2014

Assurex Global Shareholders:

- Ahmann-Martin
- Catto & Catto
- Celedinas Insurance Group
- Cragin & Pike, Inc.
- The Crichton Group
- The Daniel & Henry Co.
- Engle-Hambright & Davies
- Frenkel Benefits
- Gillis, Ellis & Baker, Inc.
- The HDH Group
- The Horton Group
- INSURICA
- Kapnick Insurance Group
- Kinney Pike Insurance
- Lipscomb & Pitts Insurance
- LMC Insurance & Risk Management
- Louisiana Companies/Querbes & Nelson
- Lyons Companies
- The Mahoney Group
- MJ Insurance
- Parker, Smith & Feek, Inc.
- PayneWest Insurance
- R&R/The Knowledge Brokers
- RCM&D
- Roach Howard Smith & Barton
- The Rowley Agency
- Smith Brothers Insurance
- Starkweather & Shepley Insurance Brokerage
- Woodruff-Sawyer & Co.
- Wortham Insurance & Risk Management

Assurex GLOBAL

ACA Regulatory Update

- Employer reporting rules
- Reinsurance fees
- HIPAA HPID & certification
- Preventive care – contraceptive coverage
- Out-of-Pocket Maximum
- Employer shared responsibility rules
- Waiting period – orientation period exception
- Miscellaneous

Employer Reporting

Employer Reporting

- Effective date
  - Reporting requirements begin in early 2016 for the 2015 calendar year
- Which employers must report?
  - Self-funded plans that provide “minimum essential coverage” (Section 6055)
  - All applicable large employers (Section 6056)
- Timing of reporting (same as W-2s)
  - Annual employer returns must be filed with the IRS by Feb. 28 (March 31, if filed electronically)
  - Corresponding employee statements must be provided annually to full-time employees by Jan. 31
- Combined reporting for self-funded employers subject to both 6055 and 6056 requirements

Employer Reporting

- IRS released draft forms
  - Form 1094-C for reporting to the IRS

    http://www.irs.gov/pub/irs-dft/f1094c--dft.pdf
  - Form 1095-C - for reporting to employees

    http://www.irs.gov/pub/irs-dft/f1095c--dft.pdf
  - Still waiting for accompanying instructions to provide more detail
- An employer who sponsors a self-funded plan can report using a single form that will include information required under both Section 6055 and Section 6056
- Applicable large employers with fully-insured plans will complete only the part of the form containing information required under Section 6056

Reinsurance Fees

Reinsurance Fees

- Applies to major medical coverage that provides minimum value and small group plans subject to actuarial requirements for 2014-2016
  - Groups that are self-funded and self-administered are exempt in 2015 and 2016
- Fee will be paid for the first time in 2015 for the 2014 calendar year
  - Carrier will pay on behalf of fully-insured plans
  - Plan sponsors/employers will pay on behalf of self-funded plans
- Amount of the fee is equal to the average number of lives multiplied by $63 in 2014, $44 in 2015 and yet to be determined for 2016 (but likely less than 2015)

Reinsurance Fees

- https://www.regtap.info
  - Ongoing information and training in regard to the reinsurance fees

- www.pay.gov
  - A report of enrollment data (average covered lives) must be submitted via the form available on www.pay.gov no later than Nov. 15 and the form will then populate the fees due
  - Fee may be collected in 1 or 2 installments
    - 1 installment no later than Jan. 15
    - 2 installments (Jan. 15 and Nov. 15)

Reinsurance Fee

- 3 methods a self-funded plan can use to determine the average covered lives (on a calendar year basis):
  - **Actual Count Method** - calculate the sum of lives covered for Jan. through Sept. and then divide by the total number of days in such months
  - **Snapshot Method** - add the total lives covered on a date during the first, second, or third month in each of the first three quarters of the calendar year, or an equal number of dates for each quarter, and divide the total by the number of dates on which a count was made
  - **Form 5500 Method** – use the number of **"**5500 participants**"** reported on the Form 5500 for the most recent plan year. Total is determined by adding participant counts at the beginning and end of the year
- Plans that change funding mid-year, plan sponsor/employer pays for portion of the year the plan is self-funded

HIPAA HPID & Certification

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

HIPAA HPID

- HIPAA requires a unique health plan identifier (HPID) to be used in standard transactions
- Carriers will obtain on behalf of fully-insured plans, but self-funded plans must acquire a HPID
  - Large health plans must obtain by Nov. 5, 2014
  - Small health plans (annual receipts of $5 million or less) must obtain by Nov. 5, 2015
- Controlling health plans are required to obtain a HPID (all employer sponsored plans are considered controlling health plans)
  - Employer should acquire one or multiple HPID numbers based on if they have structured health plans as a single plan or separate plans
- HHS has established a website where health plans can register and obtain their HPID - http://www.cms.gov/Regulations-and-Guidance/HIPAA-Administrative-Simplification/Affordable-Care-Act/Health-Plan-Identifier.html

HIPAA Certification

- Certification
  - All covered entity health plans are required to file a certification with HHS attesting that the plan is in compliance with certain HIPAA transaction requirements. The certification process involves going through a specific technical systems testing process defined in the regulations
  - Employers should work with any vendor who processes HIPAA transactions on behalf of the plan to make sure that the vendor completes the required testing and receives the necessary certification prior to Dec. 31, 2015

Preventive Care – Contraceptive Coverage

Contraceptive Coverage

- ACA requires non-grandfathered group health plans to offer preventive services with no cost-sharing to plan participants for plan years beginning on or after Jan. 1, 2014
- Coverage for some forms of contraception are included in this preventive care requirement
- Exemptions
  - Religious organizations
  - Most non-profits with a religious objection subject to certification and participant notification requirements
  - Supreme Court case (*Burwell v. Hobby Lobby*) - religious exemption extended to “closely held corporations”

Contraceptive Coverage

- "Closely Held Corporations"
  - Regulations released Friday ask for comment on how to define Closely Held Corporations (two possible options suggested and request for additional options to consider):
    - One would define it in terms of number of owners, the other would define it in terms of minimum fraction of ownership owned by a set number of owners
- Exemption requires coordination with insurance carrier or administrator to provide the contraceptive coverage directly to employees who want it, outside of the employer's plan
- Plans currently offering contraceptive coverage and choosing to reduce/eliminate coverage of contraceptive services must provide notice within 60 days of such change

Out-of-Pocket Maximum

Out-of-Pocket Maximum

- Applies to all non-grandfathered group health plans for plan years beginning on or after Jan. 1, 2014
- OOP maximum applies only for “essential health benefits”
- Limits
  - 2014
    - OOP maximums for essential health benefits are the same as the OOP maximums required for HDHPs ($6,350/$12,700)
    - Transition relief until 2015 for plans coordinating OOP maximums between multiple service providers
  - 2015
    - OOP maximums for essential health benefits are $6,600/ $13,200 (different from HDHP OOP maximum due to different indexes)
    - Separate OOP limits allowed, provided that the combined amount does not exceed the annual limitation

Employer Shared Responsibility Rules

ABA/IRS Joint Committee Meeting

- May 2014 joint committee on employee benefits
- Clarification on…
  - Determining “applicable large employer” (ALE) status
  - Short-term hires
  - Monthly measurement method
  - On-call hours

ABA/IRS Joint Committee Meeting

- May 2014 joint committee on employee benefits
- Clarification on…
  - **Determining "applicable large employer" (ALE) status**
    - Full-time employee = 120 or more hours of service/month
    - Add all full-time employees + all other hours of service / 120
    - Why does this matter?
      - When determining an employers ALE status the employer must first count all "full-time" employees, but this definition of full-time differ from the 130 hours per month used in determining who must be offered coverage under the 4980H shared responsibility rules

ABA/IRS Joint Committee Meeting

- May 2014 joint committee on employee benefits
- Clarification on…
  - **Short-term hires**
    - Not “variable hour” solely due to length of assignment
    - Seasonal if the position is recurring and tied to a particular season
    - Why does this matter?
      - Employers are allowed to impose a new hire “initial measurement period” of up to 12 months, but only on variable hour and seasonal employees
      - An employee hired to work full-time for a short period (for example 5 or 6 months) is not a variable hour employee, and consequently must be subject to regular waiting period rule applicable to other full-time employees

ABA/IRS Joint Committee Meeting

- May 2014 joint committee on employee benefits
- Clarification on…
  - **Monthly measurement method**
    - No shared responsibility payment applicable for a particular employee as long as coverage offered by 1st of 4th calendar month after employee is otherwise eligible according to plan's substantive eligibility rules
    - Why does this matter?
      - The 4980H employer shared responsibility payments (penalties) apply on a monthly basis if an employer does not offer coverage to a full time employee, but the non-assessment period means that the employer will not be liable for a 4980H payment for the first 3 months after a full time employee is eligible for coverage

ABA/IRS Joint Committee Meeting

- May 2014 joint committee on employee benefits
- Clarification on…
  - **On-call hours**
    - Cannot credit partial hours even if pay for such hours is less than for regular hours
    - Why does this matter?
      - When determining an employee's full-time status, an employer must consider all "hours of service", which include any hours for which an employee is paid
      - Hours of service for employees who are paid a lower rate when on-call count as an hour towards full-time status in the same way as when they are paid at their normal rate

Affordability

- Affordability = employee contribution for single (employee-only) coverage cannot exceed a required contribution % of household income
- Important for purposes of determining:
  - an individual's eligibility for subsidized coverage through a public marketplace
  - an employer's potential penalty under Section 4980H(b), subject to safe harbor rules
- Required contribution percentage originally set at 9.5%, but increased to **9.56% for 2015** (amount adjusted annually)
- Employer safe harbors (rate of pay, W-2, FPL)
  - Appears that safe harbor remains at 9.5%

Premium Tax Credits

- Differing opinions on validity of premium tax credits in federal Marketplaces
  - Held invalid by U.S. Court of Appeals, DC (*Halbig v. Burwell*)
  - Held valid unanimously by 4th Circuit Court of Appeals, Virginia (*King v. Burwell*)
- IRS announcement that nothing has changed; for now, premium tax credits remain available via both state and federal Marketplaces

Waiting Period
Orientation Period

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

Waiting Period Rules

- Waiting period for full-time employees limited to no more than 90 calendar days for first plan year beginning on or after Jan. 1, 2014
  - Applies to large and small employers
- Exceptions to the waiting period rule:
  - Optional look-back measurement method
  - 1200 cumulative hours of service requirement
    - Could be used by small employers or for part-time employees
    - Discrimination rules may apply if cumulative hours of service are used for only some employees (cannot favor highly compensated)
  - Other substantive eligibility criteria (i.e. certification, licensure)
  - Bona fide orientation period

Orientation Period

- May require “a reasonable and bona fide employment-based orientation period” prior to the start of the 90-day waiting period
- Maximum of 1 month (i.e. May 3-June 2 or Oct. 1-Oct. 31)
- Practical effect is that coverage may not be effective until the 1st of the month following 3 months of actual employment, which more closely aligns with the employer shared responsibility rules
- Does not extend the waiting period, but is a 1-month orientation prior to earning eligibility, at which time the waiting period kicks in
- Necessary to update plan eligibility rules – for example:
  - **Eligibility**: Employee must average ___ or more hours of service per week and complete 1 month of orientation/training to be considered eligible
  - **Waiting period**: Coverage will be effective 1st of the month following 60 days from the date of eligibility

Miscellaneous

Miscellaneous

- Fully-insured nondiscrimination rules
  - Prohibits discrimination in favor of highly compensated individuals – similar to existing 105(h) rules that already apply to self-funded plans
  - IRS delayed enforcement until after guidance is issued; still waiting…
- MLR Rebates
  - Participant portion of the rebate must be distributed within 3 months to avoid plan asset trust rules
  - Possible allocation methods:
    - Cash payment
    - Reduction to future participant contributions (“premium holiday”)
    - Apply toward cost of benefit enhancements

ACA Regulatory Update

Aug. 28, 2014

Assurex Global Shareholders:

- Ahmann-Martin
- Catto & Catto
- Celedinas Insurance Group
- Cragin & Pike, Inc.
- The Crichton Group
- The Daniel & Henry Co.
- Engle-Hambright & Davies
- Frenkel Benefits
- Gillis, Ellis & Baker, Inc.
- The HDH Group
- The Horton Group
- INSURICA
- Kapnick Insurance Group
- Kinney Pike Insurance
- Lipscomb & Pitts Insurance
- LMC Insurance & Risk Management
- Louisiana Companies/Querbes & Nelson
- Lyons Companies
- The Mahoney Group
- MJ Insurance
- Parker, Smith & Feek, Inc.
- PayneWest Insurance
- R&R/The Knowledge Brokers
- RCM&D
- Roach Howard Smith & Barton
- The Rowley Agency
- Smith Brothers Insurance
- Starkweather & Shepley Insurance Brokerage
- Woodruff-Sawyer & Co.
- Wortham Insurance & Risk Management

Thank you.

Assurex GLOBAL

ACA Regulatory Update

Aug. 28, 2014

Assurex GLOBAL