

ACA Regulatory Update

December 11 & 12, 2013



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

December, 2013

Assurex Global Shareholders:

- RJ Ahmann Company
- Catto & Catto
- Commercial Insurance
- The Crichton Group
- The Daniel & Henry Co.
- Engle-Hambright & Davies
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- The Rowley Agency
- Senn Dunn Insurance
- Smith Brothers Insurance
- Starkweather & Shepley Insurance Brokerage
- Woodruff-Sawyer & Co.
- John L. Wortham & Son



Agenda

- Definition of Small Employer
- Delay in Online Enrollment in Federal SHOP
- 2015 Payment Notice
 - Change in open enrollment period
 - Cost sharing limits adjusted
 - Composite rating
- Additional Medicare Tax Rules Released
- Reinsurance Fee
- Children Eligible for Subsidies



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Definition of Small Employer



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Definition of Small Employer

- 2014 & 2015 Plan Years
 - Definition of small employer for rating, underwriting, & eligibility for SHOP exchange is based on state law
 - This definition does not determine which employers are treated as “applicable large employers” for purpose of employer shared responsibility (pay or play) rules
 - All states define small group as 50 or fewer employees for 2014, but method to determine 50 count varies from state to state



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Definition of Small Employer

- 2016 Plan Year
 - Beginning with 2016 plan years, small employer is defined as “not more than 100 employees” for underwriting, rating, and SHOP
 - Part-time employees must be counted in the same manner as is used to calculate “applicable large employer”
 - “Applicable large employer” for pay or play is still 50 or more employees



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Definition of Small Employer

- Why Does It Matter?
 - Small group rating and underwriting rules
 - ACA small group reform rules apply to all small group plans both inside and outside the exchange
 - “Modified Community Rating”
 - No medical underwriting or pre-ex limitations
 - No rating based on claims experience
 - Age rate spread of no more than 3:1
 - Tobacco rates allowed to be 50% higher
 - Area rating allowed



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Definition of Small Employer

	2014-2015		2016	
	Size	Counting Method	Size	Counting Method
Small Employer for Underwriting, Rating & SHOP	50	State Law Based	100	4980(H) Method
Applicable Large Employer for Shared Responsibility Rules	50	4980(H) Method	50	4980(H) Method



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Definition of Small Employer

- 4980(H) Employee Counting Method
 - Underwriting/Rating/SHOP (2016) & Pay or Play Rules (now)
 - Determine number of full-time equivalents (FTE) each month:

$$\begin{aligned} &\text{Total number of full time employees (30+ hrs/wk)} \\ &+ \text{Total hours of service by part-time employee} \div 120 \\ &= \text{Number FTEs for month} \end{aligned}$$

 - Average the monthly FTEs for 12 months of the prior calendar year
- Example:

	JAN	FEB	MAR	APR	MAY	JUN-DEC
Number FT employees averaging 30 hrs/wk	32	32	35	34	35	etc...
Total hours of service by all other employees (PT)	1200	1800	1800	2400	2400	etc...
Part-time FTEs (hours ÷ 120)	10	15	15	20	20	etc...
Monthly Total	42	47	50	54	55	etc...



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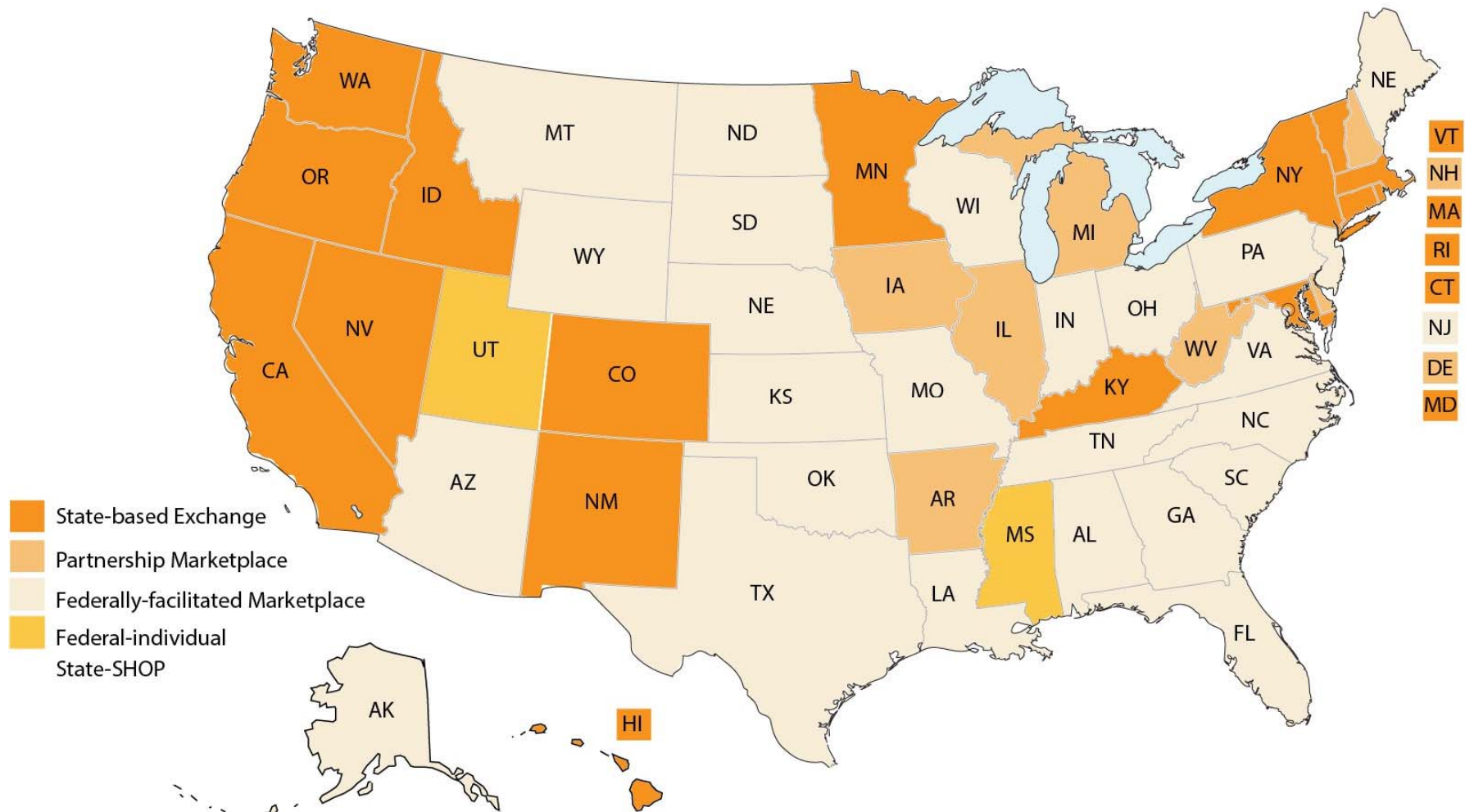
Delay in Online SHOP Enrollment



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State Exchange Status



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State Decisions

Federally Run		State/Federal Partnership	State Run	
162,547,331 (52.6%)		32,743,943 (10.6%)	107,723,082 (34.9%)	
Alabama	North Carolina	Arkansas	California	Oregon
Alaska	North Dakota	Delaware	Colorado	Rhode Island
Arizona	Ohio	Illinois	Connecticut	Vermont
Florida	Oklahoma	Iowa*	Wash. D.C.	Washington
Georgia	Pennsylvania	Michigan	Hawaii	
Indiana	South Carolina	New Hampshire	Idaho	
Kansas	South Dakota	West Virginia	Kentucky	
Louisiana	Tennessee	*Final structure still TBD Fed. Individual, State SHOP	Maryland	
Maine	Texas		Massachusetts	
Missouri	Virginia	5,731,182 (1.9%)	Minnesota	
Montana	Wisconsin	Mississippi	Nevada	
Nebraska	Wyoming	Utah	New Mexico	
New Jersey			New York	



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2015 Payment Notice



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2015 Payment Notice

- Background
 - HHS proposed regulations regarding premium stabilization rules designed to mitigate impact of adverse selection and stabilize premiums in the individual and small group market
 - Mostly deals with risk adjustment, risk corridor and the reinsurance rules applicable to insurance carriers
 - Rules of particular importance to employers
 - Change in public exchange open enrollment periods
 - Cost-sharing limits adjusted
 - Composite rating
 - Reinsurance fee rules



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2015 Payment Notice

- Change in Public Exchange Open Enrollment Periods
 - Current (for 2014 coverage) open enrollment (OE) period for individual health insurance is 10/01/13 through 03/31/14
 - Future annual OE periods originally scheduled for Oct. 15 through Dec. 7 each year
 - New annual OE for 2015 coverage
 - Nov. 15 – Jan. 15
 - Coverage effective:
 - Jan. 1 for plan selections by Dec. 15
 - Feb. 1 for plan selections Dec. 16 through Jan. 15



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2015 Payment Notice

- Plan Cost-Sharing Limits Adjusted
 - Background
 - Beginning with the 2014 plan year, total participating in-network cost-sharing cannot exceed HSA eligible plan HDHP limits
 - 2014 limits - \$6,350 for self-only coverage, \$12,700 for family
 - This maximum includes all participant cost-sharing including deductibles, co-insurance, co-payments, Rx co-payment, etc.
 - Applies to all non-grandfathered plans including large group and self-funded
 - 2015 plan year limits announced
 - \$6,750 for self-only coverage, \$13,500 for family



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2015 Payment Notice

- Small Group Composite Rating
 - Initial ACA rules directed carriers to calculate a separate premium for each individual based on allowed rating factors (area, age & tobacco use) and sum the individual rates to determine the family premium
 - Nothing prevented carriers from offering a composite rate, but many stopped offering it in the small group market
 - New composite rating rules
 - Carriers not required to use composite rates unless state law requires it
 - Carriers cannot change initial composite rates offered to group if enrollment changes due to new hires and terminations
 - Applies to small group plans sold both in and out of exchange
 - Composite rating will not be allowed in a “choice” small group plan beginning in public exchange in 2015



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2015 Payment Notice

- Other SHOP Issues

- Small employers who increase in size would continue to be rated as a small employer unless changing to a non-exchange large group plan.
- Limits on small group deductibles raised to \$2,150 for self-only coverage and \$4,300 for other than self-only coverage
 - This rule has been rendered essentially meaningless since guidance was previously issued which allows carriers to sell higher deductibles in the small group market to meet the requirement to offer a “bronze plan”
- Small group deductibles as high as \$5000 have been issued for 2014 plan year



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Additional Medicare Tax



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Additional Medicare Tax

- Background
 - Additional 0.9% Medicare Tax effective for 2013 tax year imposed on higher income individuals
 - Tax imposed on income above certain threshold

Filing Status	Threshold Amount
Married filing jointly	\$250,000
Married filing separate	\$125,000
Single	\$200,000

- Employer not required to match employee withholding
- IRS release final regulations Nov. 26 and updated FAQ
 - <http://www.irs.gov/Businesses/Small-Businesses-%26-Self-Employed/Questions-and-Answers-for-the-Additional-Medicare-Tax>



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Additional Medicare Tax

- Employer Obligations
 - Employers must withhold the additional tax from wages it pays in excess of \$200,000 in a calendar year
 - Begin withholding in the pay period when wages exceed \$200,000
 - Employer Liability
 - Employers who do not withhold the additional tax are liable for the amount of tax unless they can prove the tax they failed to withhold is paid by the employee
 - Changes to withholding amount
 - Employers may not honor an employee's request to make additional withholding or cease withholding
 - Employee may request employer withhold an additional amount of income tax on Form W-4 if they anticipate additional liability



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Reinsurance Fee



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Reinsurance Fee

- Reinsurance Fee
 - 2015 Fee
 - Self-funded/Self-administered plans



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Reinsurance Fee

- Background
 - Effective calendar year 2014 – 2016 all fully-insured and self-funded health plans pay a fee to help fund a reinsurance program used to protect health insurance carriers from losses due to catastrophic claims in the individual and small group market
 - 2014 fee = \$63 per participant per year
 - Contributing Entities
 - Fully-insured plans
 - Carriers will pay on behalf of employer's plan
 - Self-funded plans
 - Group health plan legally responsible for fee
 - TPAs “may” pay on behalf of plan
 - Check with your TPA – we have heard of different approaches



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Reinsurance Fee

- Reinsurance Fee Update
 - 2015 Fee = \$44 per participant per year
 - Self-funded self-administered plans are exempt from the fee beginning in 2015
 - Self-funded plans that use a claims administrator are still subject to the fee
 - Counting methods for self-funded plans will generate different liability amounts
 - Actual count based
 - Snapshot method
 - 5500 method
 - Based on plan year
 - Only allowed for plans that file a 5500



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Reinsurance Fee

- Reinsurance Fee Update
 - Timing and Collection
 - Contributing entity reports enrollment counts to HHS by Nov. 15
 - HHS will notify the entity of the amount to be paid within 30 days
 - Contributing entity must remit contributions to HHS in two payments – one covers reinsurance fund, the second covers amount of fee payable to U.S. Treasury
 - First payment within 30 days after the date of the notification
 - Second Payment in 4th quarter
 - 2014 Payments
 - First payment = \$52.50
 - Second payment = \$10.50



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Subsidy Eligibility



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Subsidy Eligibility

- Background
 - “Subsidies” not available to individuals eligible for “affordable” employer-sponsored “minimum value” coverage
 - Affordable = employee contribution for single (employee-only) coverage is no more than 9.5% of household income
 - Affordability for family members
 - An employee’s family member qualification for subsidy is based on the employee’s contribution for employee-only coverage



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Subsidy Eligibility

- Family Subsidy Eligibility Example

\$24,000 Household Income	Contribution	\$2,000 mo.
Employee-only	\$150.00 per mo.	7.5% of income
Add dependents	\$500.00 per mo.	25% of income

- Eligible family members will not be eligible for subsidized individual health insurance through an Exchange because employee-only coverage is “affordable”
- Very few employees (or their family members) who are eligible for an employer plan will qualify for subsidized individual coverage through the Exchange



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Subsidy Eligibility

- Subsidy Eligibility for Adult Children
 - Exception under 26 CFR §1.36B-2 for “related individuals” not claimed as a personal exemption deduction on the employee’s tax return
 - Adult children are subsidy eligible (based on their own income) as long as they are not enrolled in parent’s employer plan – even if they are eligible for the employer plan



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