



**NCCMP Annual Conference**  
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The Diplomat Hotel, Hollywood, Florida

# **AFFORDABLE CARE ACT Implementation Considerations**

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# Federal Regulatory Outlook

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- Labor, Treasury and Health and Human Services continue to work on regulations



# Benefit Mandates

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- Grandfather Plan Rules
  - Comments and ongoing conversations regarding impact on plans
- Age 26 coverage
- Patient protections and preventive benefits



# Annual Limit Waivers Approved

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- Self-Insured Employers (631)
- Health Reimbursement Arrangements (491)
- Multi-Employer Plans (378)
- Non-Taft Hartley Union Plans (30)
- Health Insurance Issuers (41)
- State-Mandated Policies (5)
- Association Plans (2)

# Comparative Effectiveness Research Fees

- All plans (insured and self-insured) must pay a fee to fund comparative effectiveness research (patient-centered outcomes research)
- First plan year ending after September 30, 2012— \$1.00 per average number of covered lives
- Thereafter — \$2.00 per covered life (indexed)
- Sunsets in 2019
- Notice 2011-35
- Comments on how to count covered lives

**Comparative effectiveness is comparing two or more treatments for a given condition.**



# Form W-2 Reporting

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- Informational reporting of aggregate cost of employer-sponsored health care coverage
  - Does not cause employer sponsored coverage to become taxable
- Generally applies to all employers that provide applicable employer-sponsored coverage
- Transition Rule: IRS exempts employers contributing to multiemployer plans from need to include cost of coverage on W-2s
- Applies for 2012 Form W-2s, which are issued Jan. 2013
- Comments filed to Notice 2011-28



# Form W-2 Reporting *continued*

## Amounts to be Included

- Cost of health care coverage (medical, prescription drug, mental health, on-site medical, employer flex credits to health FSA, and dental/vision if integrated with other health care coverage)
- Employer and employee contributions

## Amounts to be Excluded

- Amount contributed to Archer MSA, HSA or HRA
- Amount of any salary reduction election to a health care FSA
- Amount contributed to a multiemployer plan
- Amount paid for dental/vision plan that is not integrated with other health care coverage
- Cost of coverage under a self-insured group health plan not subject to any federal continuation coverage
- Cost of coverage provided by federal, state or local government under a plan maintained primarily for members of the military and their families

# New Uniform Summary of Benefits and Coverage (SBC)

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- To provide eligible employees and participants with an accurate summary of benefits and coverage
- Under proposed rule (published August 22, 2011), SBCs must be provided beginning March 23, 2012
- Issued by plan sponsor or plan administrator (self insured) or issuer (fully insured)
- Draft template includes detailed instructions on how to complete
  - Max of 4-double-sided pages, no smaller than 12-point font
- Each SBC must describe one benefit option
- Provide as part of open enrollment materials; if no open enrollment period, provide 30 days before start of plan year

# Advanced Notice of Material Modification

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- Notice of material modification to terms of plan/coverage reflected in the SBC must be provided at least 60 days *prior* to the date the modification becomes effective
- Under proposed rule, applies only to mid-year changes that affect content of the SBC



# New Enrollment Rules for 2014



- Automatic Enrollment for larger (over 200) employers
  - Testified at DOL **Public Forum on Automatic Enrollment in Large Employer Health Plans** in March 2011
  
- 90-Day Waiting Periods
  - Comments filed on Notice 2011-36

# Individual and Employer Responsibility

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- Multiemployer plans should be able to allow individuals to meet their individual mandate to obtain health insurance coverage
- Employers that contribute to multiemployer plans should meet their responsibilities to provide health insurance coverage by making their collectively bargained contributions
  - Plans may have to provide a minimum level of coverage
  - Comments filed on Notice 2011-36

# Exchanges

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- How can multiemployer plans purchase coverage on the small business Exchange (SHOP Exchange)?
- Can multiemployer plans be treated as plans on the Exchange?
- Can participants in multiemployer plans receive federal subsidies to purchase health coverage
- Comments filed to various notices and proposed regulations



# Notice/Reporting Requirements

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- No later than March 2013, employers must provide notice to employees of the following:
  - The existence of the exchange
  - Services offered by exchange
  - How to enroll/request information
  - If employer's coverage is unaffordable, the fact that a tax subsidy may be available
  - The fact that employer contribution may be lost (other than through free choice voucher) if employee enrolls in exchange

# Notice/Reporting Requirements

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- Reporting beginning in 2014 regarding coverage options offered to all full-time employees:
  - 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 employer's premium under the option with the highest employer contribution
  - 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 (report also provided to employees)

# Comment Deadlines

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- Treasury Notice 2011-35 on comparative effectiveness research fees – *September 6, 2011*
- HHS proposed rule on CO-OPs – *September 16, 2011*
- HHS proposed rule (#1) on exchanges – *September 28, 2011*
- HHS proposed rule on reinsurance, risk corridors, and risk adjustment – *September 28, 2011*
- HHS/DOL/Treasury: interim final rule on additional preventive services for women, with exemption for certain religious employers from requirement to provide contraceptive services – *September 30, 2011*
- HHS/DOL/Treasury proposed rule/template on Uniform Summary of Benefits and Coverage – *October 21, 2011*
- Treasury proposed rule on premium assistance tax credit – *October 31, 2011*
- 2nd HHS proposed rule on exchanges (addressing verification of eligibility, including eligibility for premium assistance tax credit) – *October 31, 2011*
- HHS proposed rule on eligibility for Medicaid and CHIP – *October 31, 2011*
- Treasury Notice 2011-73 request for comments on safe harbor under free-rider penalty – *December 13, 2011*
- HHS request for comments on state flexibility to establish Basic Health Program – *October 31, 2011*

# Resources

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➤ **Health & Human Services**

<http://cciio.cms.gov/programs/exchanges/index.html>

➤ **Treasury/Internal Revenue Service**

<http://www.irs.gov/newsroom/article/0,,id=220809,00.html?portlet=6>

➤ **Labor**

<http://www.dol.gov/ebsa/healthreform/index.html>

➤ **Segal Publication on Exchanges**

<http://www.sibson.com/publications-and-resources/capital-checkup/archives/?id=1721>

# Questions?

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