

# ACA Compliance Roundtable Series



## ACA Leftovers

# Welcome to the ACA Compliance Roundtable Series!!!

- Monthly discussion of specific health care reform related topics
- Small group discussions
- Address individual questions or concerns
- Possible session topics:
  - ☑ Transition Relief
  - ☑ Change in Employment Status
  - ☑ Related Entity Status
  - ☑ Offers of Coverage
  - ☑ Break in Service rules
  - ☑ Tracking/recordkeeping Application

# Agenda

- ACA Lawsuits
- 2016 PPACA Administration Changes
- Minimum Value Update
- Changing Measurement Periods
- Paying for Exchange Coverage
- Timelines
- Things to Watch
- Tracking and Compliance Discussion

# ACA Lawsuits

- Two challenges to ACA currently in court system
- Earliest rulings expected in mid-2015
- Implementation of the ACA should move forward while courts consider cases

# ACA Lawsuits

- Supreme Court expected to rule in June in case regarding subsidies (King v Burwell)
  - Does the language of the ACA permit subsidies only in states that have a state developed Exchange?
- House of Representatives suit to consider issue of President's right to delay and modify provisions of the law.
  - Delay of the Employer Mandate
  - Delay/interpretation of other provisions of the law and collection of fees

# 2016 PPACA Administration Changes

- Proposed Regulations released in late November
- Focus on improving experience in the Marketplace (Exchanges)
  - Greater pricing and plan transparency
  - Information more accessible to consumers (especially in relation to networks)

# 2016 PPACA Administration Changes

- Significant change to Exchange open enrollment period for 2016 plan year and beyond
  - October 1 – December 15
    - Much shorter than current open enrollment (November 15 – February 15)
    - May lead to greater number of status changes

# *Group Discussion*



# Minimum Value Update

- Plans must provide Minimum Value (MV)
  - Minimum value = Plan's share of total costs is 60% or greater
    - Determine by actuarial formula
- HHS provided an on-line calculator that allowed plans to determine if plans met MV.
- Calculator allows plans to get 60% MV or greater without covering certain services (Plans are able to exclude services and meet minimum value – including inpatient hospital care)

# Minimum Value Update

- Employees are not eligible for a subsidy on the Exchange if the plan is affordable and meets MV
- November 26 – Revised Regulation released
  - “Flexibility in designing plan does not mean plans should not be subject to minimum requirements”
- In order to be considered meeting MV plans must:
  - Meet 60% of actuarial value, and
  - “Provide a benefit package that meets a “minimum standard of benefits”
    - Must include hospital care and physician services
    - Based on “Essential Health Benefits”

# Minimum Value Update

- Effective date is immediate unless an employer entered into a contractual agreement prior to November 4, 2014 and plan year will begin prior to March 15, 2015
- Essential Health Benefits
  - Not applicable to self-funded and large fully – insured group plans
  - HHS believes that the “structure and context” of the law supports establishing minimum standards

# Minimum Value Update

- Essential Health Benefits include:
  - ambulatory patient services;
  - emergency services;
  - hospitalization;
  - maternity and newborn care;
  - mental health and substance use disorder services, including behavioral health treatment;
  - prescription drugs;
  - rehabilitative and habilitative services and devices;
  - laboratory services;
  - preventive and wellness services and chronic disease management; and
  - pediatric services, including oral and vision care.

# *Group Discussion*

# Changing Measurement Periods

- **Variable Hour Employee Becomes Full Time Employee**
  - Coverage must be offered at the earlier of:
    - The 91<sup>st</sup> day following the date of transfer; or
    - If the employee was in an initial measurement period and averaged over 30 hours per week – the first day of the first month following the completion of the IMP

# Changing Measurement Periods

- Full Time Employees Becomes a Variable Hour Employee
  - What are the hours worked during the previous measurement period?
    - May have to use “Hours of Service” method to assign hours
  - Is the employee currently in a stability period?
    - Coverage must be continued through the end of the stability period
  - Determination for future stability periods
  - If new hire and coverage has started, cover until end of stability period and measure for next stability period
  - A change in status for an ongoing employee NEVER changes status as a full-time employee or non full-time employee during the stability period

# Changing Measurement Periods

- IRS Notice 2014-49 addresses how to handle an employee who is a new hire in their Initial Measurement Period at the time of transfer
- Utilize measurement period and methods for new position
  - Beginning on date of transfer
  - Include employee's hours of service from the first position during the new position's IMP
  - If hours were not tracked, apply according to "hours of service rules"



# *Group Discussion*

# Paying for Exchange Coverage

- ACA prohibits employers from allowing employees to pay for Exchange coverage on a pre-tax basis
- Employers paying or reimbursing cost of Exchange coverage create an “employer payment plan” (EPP)
- Clarified in regulations released in November 2014 that any arrangement (taxable or non-taxable) would be considered an EPP

# Paying for Exchange Coverage

- EPPs are group health plans and therefore must comply with the provisions of the ACA
  - Prohibition of annual and lifetime dollar limits, and
  - Coverage of preventive services
- Plan would incur penalties for not complying with ACA provisions
- Employee would not qualify for subsidies

# Paying for Exchange Coverage

- Offering disenrollment incentives to high cost claimants would constitute discrimination based on health status
  - Violation of HIPAA
- Clarification that premium reimbursement is an EPP regardless of employer's involvement in the selection of an Exchange plan

# *Group Discussion*

# Timeline

- **December 5, 2014.** Provide enrollment data for 2015 reinsurance fee and schedule payment.
- **January 1, 2015.** Employer mandate provisions take effect.
- **January 15, 2015.** Pay first installment of transitional reinsurance fee.
- **June 30, 2015.** Pay PCORI fee.

# Timeline

- **November 15, 2015.** Pay second installment of transitional reinsurance fee.
- **Open Enrollment 2015.** Issue updated Summary of Benefits and Coverage (SBC) for 2016 coverage
- **February 1, 2016.** Report coverage to employees along with W-2 reporting value of coverage.
- **February 29, 2016.** Transmit coverage information to the IRS (extend to March 31, 2016 if filing electronically).

# Timeline

- **Notice of Exchanges.**
  - Issue to all new hires and be sure to update the notices if coverage changes.
- **COBRA Notices**
  - Update COBRA election notices for the new model language issued in 2014 alerting COBRA-qualified beneficiaries to the availability of insurance through the Exchanges



# Things to Do

- **Notice of Exchanges.**
  - Issue to all new hires and be sure to update the notices if coverage changes.
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# Things to Do

## ■ Cafeteria Plans.

- Mid-year election change events to cafeteria plans,
  - Employees who reduce their hours below 30 per week may drop coverage mid-year election change to obtain coverage elsewhere (such as on an exchange) in anticipation of a future loss of coverage, even though the employee is currently in a stability period and does not lose coverage.
  - If an employee is eligible for special enrollment rights on an exchange and wishes to drop employer-sponsored coverage and immediately purchase exchange coverage.

## ■ Flexible Spending Account Increases.

- 2015 limit is increased to \$2,550.
- Amend their plan documents to link the annual cap to the indexed amount as announced each year by the IRS

# Things to Watch

- Supreme Court
  - King v Burwell
- Exchange Enrollment
  - Estimates lowered to under 10 million
- Republican Majority in Congress
  - 30 hours per week
  - Reporting requirements
  - Cadillac Tax

# *Group Discussion*

# Tracking and Compliance Discussion

# How Will You Handle ACA Compliance...

## Affordability

- 95% Rule
- Hours of Service
- Potential Liability Calculation
- Month-by-month Calculation

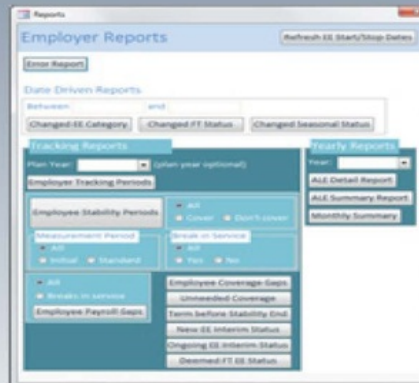
## Tracking

- Variable Hour Employee
- Standard Measurement Period
- Initial Measurement Period
- Month-by-month Calculation

## IRS Reporting

- 6055/6056 Reporting
- Indicator Codes
- Potential Audit
- Month-by-month Calculation

One Solution for all Employer  
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*Questions???*

