Today’s Topics

• 2014: Should Employers Provide Coverage or Pay the Penalty?
• Health Care Reform Court Challenges
• Recent Changes, Updates and Delays
• 2011 Requirements
Provide Coverage or Pay Penalty? Overview

• Individual and Employer Mandates
• Economic Considerations
• Non-Economic Considerations
• Unknown Factors
Provide Coverage or Pay Penalty?
State Exchanges

- January 1, 2014: State health exchanges are required to be established for individuals and small businesses of 100 or fewer employees
  - Prior to 2016, states can limit this to businesses with up to 50 employees
  - Beginning 2017, states can allow the state health exchanges to become available for all employers
- Exchanges will have a variety of insurance options to satisfy the new mandates
- If States fail to open an exchange, federal government has the option to step in and establish an exchange
Provide Coverage or Pay Penalty? Individual Mandate

- Beginning in 2014, to avoid penalty, individuals will be required to have “minimum essential coverage:”
  - Subsidies for those up to 400% of Federal Poverty Level, or if employer coverage is not “affordable”
  - Medicaid will be expanded
- For 2014, penalty is $95/uninsured adult or 1% of household income over filing threshold
- For 2015, penalty $325 or 2%
- For 2016 and after, penalty increases to $695* or 2.5%
Provide Coverage or Pay Penalty? Employer Mandate

• Law does not require employers to offer health coverage to their employees

• However, large employers will be subject to a penalty beginning in 2014 if they:
  – Do NOT offer coverage
  – Offer coverage that is NOT affordable, or
  – Offer coverage that DOES NOT meet the minimum essential standards
Provide Coverage or Pay Penalty?
Employer Mandate

For purposes of the penalty, a *large employer* is an employer who has 50 or more full-time employees or full-time equivalents:

- Full-time employees: those that work 30 or more hours a week calculated on a monthly basis
- Full-time equivalents are also counted in the determination of whether an employer is a large employer for purposes of the penalty
- The penalty only applies with respect to full-time employees
Provide Coverage or Pay Penalty? Employer Mandate—Penalties

• If full-time employees (and dependents) are not offered minimum essential coverage, penalty applies if at least one full-time employee receives federal assistance to purchase through an Exchange:
  – Penalty is equal to $2,000 multiplied by the total number of full-time employees not taking into account the first 30 employees
Provide Coverage or Pay Penalty?

Employer Mandate—Penalties

• Penalty also applies if the health coverage offered is either:
  – unaffordable because the employee’s required contribution is more than 9.5% of employee’s household income, or
  – the plan pays for less than 60% of covered health care expenses

• Expect changes to this penalty since it is based on information that will not be available to the employer
Provide Coverage or Pay Penalty?
Employer Mandate—Penalties

- No penalty for employees receiving “free choice vouchers” paid by the employer
- Employers must report annually:
  - Whether they offer health coverage to their full-time employees and dependents
  - The total number and names of full-time employees receiving health coverage
  - The length of any waiting period; and
  - Other information about the cost of the plan
Provide Coverage or Pay Penalty? Employer Mandate—Penalties

- If employer coverage is not affordable the penalty is equal to:
  - At least, $3,000 multiplied by the number of full time employees receiving assistance, BUT
  - No more than $2,000 multiplied by the number of full time workers, but not taking into account the first 30 employees
Provide Coverage or Pay Penalty? Economic Considerations

• Current insurance costs vs. penalty cost
  – Number of employees/participants
  – Cost of insurance coverage
  – Level of benefits offered
  – Cost of providing coverage that provides for “minimum essential benefits”

• Cost of coverage under the Exchange
Provide Coverage or Pay Penalty?
Non-Economic Considerations

- Employee Expectations
- Industry Standards
- Types of coverage options available through the Exchange
- Demographics of workforce
Provide Coverage or Pay Penalty?

Unknowns

- Survival of health care reform
- Costs of coverage under the Exchange
- Increase in the penalties over time for employers and individuals
Health Care Reform
Court Challenges

• Four district courts have issued opinions on health care regarding the individual mandate
• Two have found the individual mandate unconstitutional and two have upheld the rule as constitutional
• Effect of the ruling on health care reform
Recent Changes, Updates and Delays

• Nondiscrimination
  – The nondiscrimination rules have been delayed pending the release of additional guidance

• Debit Cards
  – IRS changed its position and will allow participants in FSA plans to use debit cards to purchase OTC drugs with a prescription

• W-2 Reporting
  – The IRS announced that employers will not be required to report the cost of employer-sponsored group health coverage on Forms W-2 issued in 2011. Waiting for additional guidance.
2011 Requirements

• Adult child coverage
• No pre-existing condition for individuals under 19
• Reasonable annual limits
• No lifetime caps
• OTC charges for FSA plans
• Simple cafeteria plan
• No rescissions
• Minimum waiver
• 80% of premiums used for claims
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