



# Federal Health Reform's Impact

Chad Kunze, Partner  
Darrell Songer, Partner  
CliftonLarsonAllen LLP  
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# Outline for Today's Discussion

- Why Health Care Reform?
- Status of Health Care Reform and Its Initiatives
- Direct Impact (As of Today)
  - Individual Mandate
  - Employee and Employer impact
  - Tax Law Impact
- Example of Health Insurance Calculator
- Questions and Comments

# Forces Driving Reform ...

Growing uninsured population

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Exponential growth in expenditures

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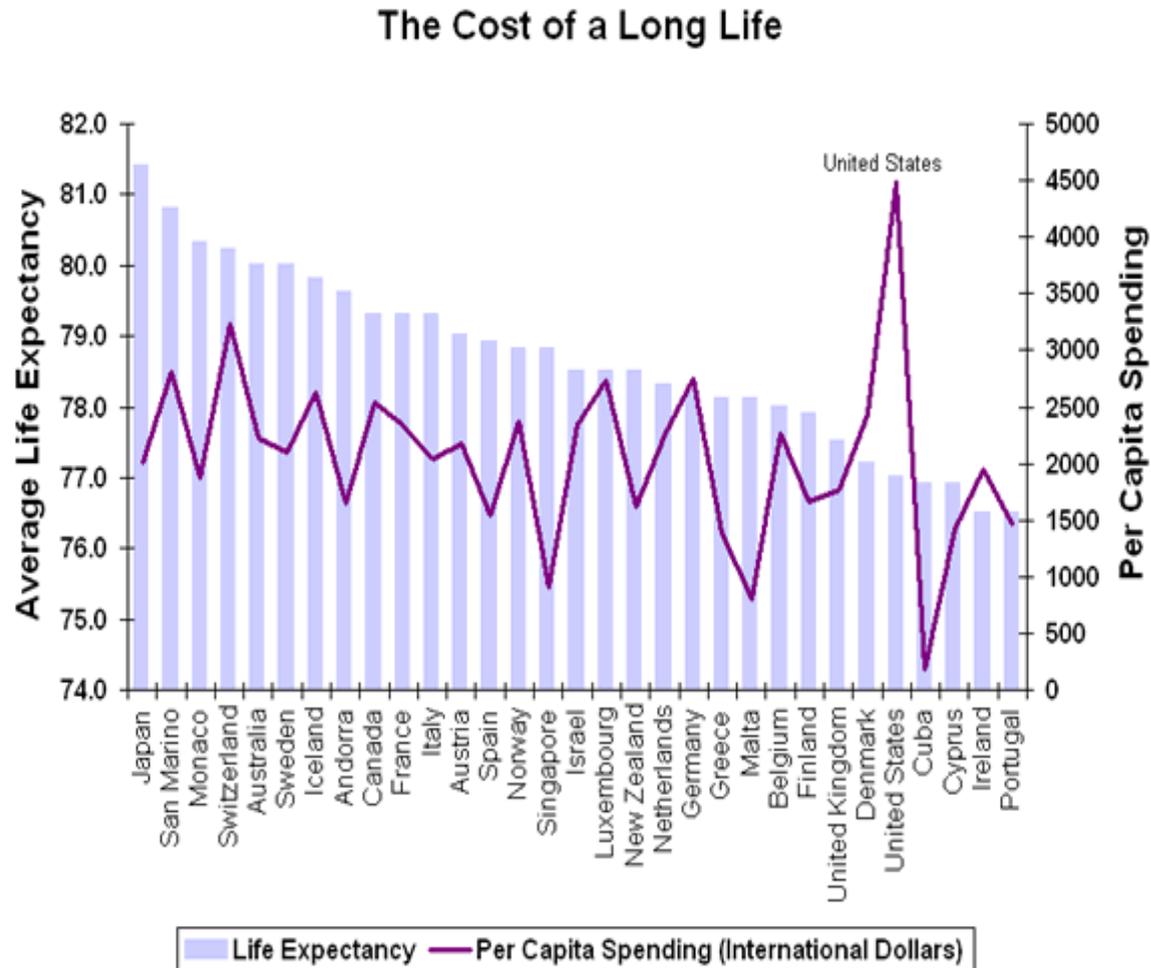
Looming Medicare insolvency

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Cost to quality comparisons

# Why Reform?

- Reform is a must!
  - Cost is too high
  - Quality is too low
- The United States spends more than any other country on health care, but historically ***has not*** received a return on its investment when compared to other countries.



\* Sources: UC Atlas of Global Inequality: Health Care Spending <http://ucatlans.ucsc.edu/spend.php>

# What Happened?

- In March 2010, Congress passed and the President signed health reform in:
  - The Patient Protection and Affordable Care Act
  - The Health Care and Education Affordability Reconciliation Act of 2010.
    - ◇ Increases **access** to health coverage
    - ◇ Aims to **reduce costs** via payment reductions and focus on wellness and prevention
    - ◇ Seeks to reward “**value-based**” care delivery
- Since passage, numerous additional laws have been passed amending portions of original laws, and rules/guidance issued – **This Will Continue**

## Impact of the Act:

- Cost: = \$940 billion/10 yrs
- Coverage = 32+ million by 2019

# Is Health Reform Here to Stay?

- **Congressional Repeal of Health Reform**
  - House passed, Senate said, “No”
  - Death by a thousand cuts or repeals of pieces of reform
    - ◇ Examples of Repeals as of April 2011: 1099s, Free choice vouchers
- **The Courts - Litigation Challenges to Reform**
  - Three district courts upheld, two courts say unconstitutional
  - Appellate court action:
    - ◇ 4<sup>th</sup> Circuit: Threw out both cases
    - ◇ 6<sup>th</sup> and DC circuit: Upheld law
    - ◇ 11<sup>th</sup> Circuit: Mandate unconstitutional but rest of law stands
  - Supreme Court: **March 2012 hearing, June 2012 ruling expected**
- **Administrative Agencies' Action**
  - Issuing rules and guidance on both employer and provider initiatives
- **Impact of the Presidential Election?????**

# Reform Summary Timeline

- *High risk insurance pools established.*
- *Small business tax credits for offering employee health insurance established*
- *Insurers can no longer deny coverage to children for pre-existing conditions.*

**2010**

- *New group and individual plans required to cover preventive services at 100%.*
- *Dependents coverage expanded to age 26.*
- *Annual review of insurance premium increases effective.*
- *Grandfathered plan notification requirements.*

- *Increased penalty on non-medical distributions from HSAs.*
- *Insurance administrative simplification begins.*
- *Medical loss ratios become effective for small group and individual plans.*

**2011**

- *New simple cafeteria plans available to small businesses*
- *Workplace wellness program grants available for small employers*
- *Annual fees assessed on pharmaceutical companies.*
- *Application of non-discrimination regulations to fully-insured plans.*
- *OTCs no longer reimbursable under various health spending accounts*

- *Employers to disclose health insurance benefits on W-2s.*
- *CLASS Act: National voluntary LTC insurance program established.*

**2012**

- *Health plans to pay per participant fee to pay for Comparative Effectiveness Research.*

# Reform Summary Timeline *(cont'd)*

- *Large employers disclose health insurance benefits on W-2s*
- *Health insurers required to begin following administrative simplification regulations.*
- *Limits placed on flexible spending accounts.*
- *New 3.8% Medicare Tax for Unearned Income .*

**2013**

- *Medicare Earned Income Tax Increases to 2.35% for higher income earners.*
- *Employer tax deduction for Part D subsidies eliminated.*
- *Insurance Exchange open enrollment begins*

- *State insurance exchanges operational.*
- *Individual penalties imposed for failure to obtain health insurance coverage.*
- *Insurance industry pays fees based on market share.*
- *Insurers prohibited from restricting coverage and imposing benefit limits.*

**2014**

- *Employer "shared responsibility" penalties imposed.*
- *Small employers to begin reporting health benefits on W2s.*
- *Large employers to begin auto-enrolling FT employees into health insurance plan.*
- *Insurers must guarantee issue and renew plans*

- *Large employers may be able to offer Exchange plan as employer-sponsored coverage (2017)*
- *Excise tax imposed on "Cadillac" health plans (2018)*

**2015 - 2018**

# What Health Reform Does NOT Do

**No Public Health Insurance Option:** *Does not include provisions for the federal government to offer a competitive health insurance product for purchase by individuals and small business in or out of the insurance exchanges. State insurance exchanges will offer health insurance products from private and non-profit insurers.*

**Physician SGR Payment Reduction Fix:** *PPACA did not address abeyance of the pending physician sustainable growth rate reduction, which is estimated at an average of 21% across all specialties. The reduction was delayed until June 1, 2010 as part of a separate piece of legislation passed in April 2010. On June 25, 2010, Congress posted the SGR cut yet again until November 30, 2010. The legislation also increased physician rates by 2.2% through 11/30/2010. These actions were extended in December 2010. Without further action on this issue by December 31, 2011 physician rates will be reduced by 23.5%.*

**Rationing of Care:** *Does not specifically implement rationing of care; recommendations of the several cost-effectiveness and clinical-effectiveness study panels implemented via the bills are specifically prohibited from being used to restrict provision of services, even if those services are shown to be less cost-effective (or clinically-effective) than other widely available services.*

**Tort Reform:** *No serious tort reform; the bills call simply for "studies", even though we have the lessons learned from the several states that have implemented malpractice tort reform.*

**Inter-State Insurance:** *No federal position on the ability to purchase health insurance across state lines. The Acts leave that issue up to states that wish to collaborate and provide new rules for multi-state insurers that would allow those interstate purchases.*

# Insurance/Coverage Provisions

- Availability of a federal high risk pool to help those with pre-existing conditions who have been denied coverage in obtaining health insurance.
- Elimination of pre-existing condition exclusions on coverage of **children**. (09/23/10)
- Prohibits cancellation of coverage when a person gets sick.
- Eliminates lifetime limits on coverage and prohibits use of “restrictive annual limits.” (09/23/10)
- First dollar coverage for all preventive services (09/23/10)
- Coverage for children on their parent’s plan extended up to age 26. (09/23/10)
- Allows women to designate an OB/GYN as their primary care practitioner. (2010)

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# HEALTH BENEFITS: EMPLOYER IMPACTS

# 2011 Tax Credit for Small Employer Health Premiums

## Eligible small employer:

	<u>Full Credit</u>	<u>Upper Limit</u>
• Number of FTEs	$\leq 10$	25
• Avg. annual payroll per FTE	$\leq \$25,000$	\$50,000
• Employer contributes $\geq 50\%$ of employee premium		

*This will only benefit the smaller companies*



2012 :

## W-2 Disclosure of Health Coverage Cost

- IRS delayed W-2 disclosure employer-provided health benefits costs for 2011 [IRC Sec. 6051(a)]
  - Includes medical insurance, dental and vision plans(unless separate plans), and self-insured arrangements
  - No reporting for employee salary-reduction FSAs or employer HSA or Archer MSA funding
  - Include family coverage amount, if applicable
- Reporting begins for most employers for 2012 expenses

# 2012: W-2 Disclosure of Health Coverage Cost

- W-2 reporting of health care costs applies to W-2s issued for 2012 benefits.
- **Small Employers –fewer than 250 W-2s in 2011**
  - Disclosure is optional for 2012 and until further guidance is issued, at least until January 2014.

## Additional Resources

- **Interim implementation guidance:** IRS Notices 2011-28: <http://www.irs.gov/pub/irs-drop/n-11-28.pdf>
- **2011 W-2 form:** <http://www.irs.gov/pub/irs-pdf/fw2.pdf>

# Implementation date TBD: Fully-insured plans can no longer discriminate

- Expands the nondiscrimination rules to cover fully-insured group health plans (IRS Code Section 105(h), which already applies to self-insured)
  - Also includes HRAs or stand-alone Medical Reimbursement Plans (MRPs)
  - Affects non-grandfathered plans for plan years beginning on or after 9/23/10
- **Penalties**
  - An employer who sponsors a discriminatory insured group health plan will be subject to an excise tax liability of **\$100 per day per employee affected with a maximum penalty of \$500,000**
- As of 12/27/2010, compliance has been **delayed** until guidance/ rules issued
- Additional comment period on proposed guidance closed 3/11/11
  - See IRS Notice 2011-1

# 2012: Community Living Assistance Services and Supports (CLASS) Act

A national, voluntary, self-funded long term care insurance program that provides per diem cash benefit in the event an individual suffers a functional—physical or cognitive—limitation.

- HHS Secretary to release program details by October 1, 2012 –  
**Delayed & Threat of Congressional Repeal**
  - ◇ Sign up is expected sometime after this date.
  - ◇ Premiums are expected to vary based upon age at sign up.
- **Premium-supported program:** law prohibits any taxpayer funding.

## Employer Role

- Decide whether to participate in the program
- If participate, then:
  - Auto-enroll employees, unless they affirmatively opt out
  - Make payroll deductions for the program premiums for participating employees
- Does not require employer contribution.
- Program also available to self-employed and workers whose employers opt not to participate.

# Health Plan Fees/Taxes

## Comparative Effectiveness Research Plan Fee (2012)

- Effective for plan years ending after 9-30-2012, health insurance and self-insured plans must pay a per participant fee
  - If self-insured, employer pays fee.
- Fee
  - Year 1: \$1/participant
  - Year 2: \$2/participant
  - 2014: Inflation adjusted rate
  - 9/30/2019: Phased out

**IRS Notice 2011-35:** Proposed guidance, seeking comment

## Cadillac Plan Tax (2018)

- 40% excise tax assessed on health insurer or plan administrator offering “high-cost” health coverage
  - “High cost” = annual premium > \$10,200 single coverage or \$27,500 family coverage

# 2013: Contribution Limits on Flexible Spending Accounts

- Places an annual limit on employee's FSA contributions to \$2,500
  - Current law imposes no limit.
  - The limit will be indexed for inflation beginning in 2013.
- This contribution limit does not impact Dependent Care FSAs. Contributions to Dependent Care FSAs will continue to be subject to a \$5,000 per year limit.

2013:

## Increased Medicare Tax - Earned Income

- **Current Law**

- Employee FICA payroll tax: 6.2% on first \$106,800
- Medicare Tax = 1.45% on all earnings

- **New Law**

Medicare tax increases 0.9% to 2.35% for higher income earners:

- Single earned income over \$200,000
- Joint earned income over \$250,000
- Assessed on employee share only, but employer withholds
- If withholding is inadequate, must be remitted in 1040

# 2013: Medicare Surtax - Unearned Income

- **Net investment income**
- Interest, dividends, annuities, royalties, rents
- Passive income
- Trading in financial instruments/commodities
- Capital gains and other property disposition gains

- New 3.8% Medicare surtax on unearned income
- Lesser of:
  - Net investment income, or
  - Modified AGI in excess of \$200,000 single ; \$250,000 MFJ
- Applies to estates and trusts, too
- Exceptions: Active business income; IRA and retirement plan withdrawals; all SE income; tax-exempt income

# Medicare Surtax on Unearned Income: Example

- **Example 1**: Husband & Wife have \$280,000 of salaries and \$20,000 of interest income or a \$300,000 MAGI
  - **RESULT**: Interest income is less than income in excess of threshold so surtax is  $3.8\% \times \$20,000 = \$760$
- **Example 2**: Husband & Wife have \$240,000 of salaries and \$20,000 of interest income or a \$260,000 MAGI
  - **RESULT**: Pay surtax of  $3.8\% \times \$10,000 = \$380$

# 2014: Individual Mandate

- **Individual mandate to obtain health coverage:** Beginning in 2014, most individuals must obtain a minimum-level of health insurance coverage or pay a penalty
- **Minimum essential coverage includes:**
  - Medicare, Medicaid, TRICARE
  - Insurance purchased through an Exchange, on the individual market
  - Employer-sponsored coverage that is affordable & provides minimum value
  - Grandfathered plans (group plan in effect on 3/23/2010)
- **Penalties for failure to obtain coverage:**
  - In 2014: greater of \$95 or 1.0% of income
  - In 2015: greater of \$325 or 2.0% of income
  - In 2016: greater of \$695 or 2.5% of income
  - Penalty is capped at three times the per person amount for a family
  - Assessed penalty for dependents is half the individual rate

**Hardship exemption**  
Premium cost for  
lowest cost plan > 8%  
of Household Income

# 2014: Government assistance to help some individuals obtain coverage

- **Medicaid expansion:** Expands eligibility to individuals and families up to 133 % of the federal poverty level (FPL)
  - If cost effective, states can opt to subsidize employer-sponsored premiums for this group
- **Premium and cost share assistance:**
  - Individuals and families with household income of 100 - 400 % FPL may be eligible for sliding-scale assistance in the form of:
    - ◇ Tax credits to help pay premiums; and
    - ◇ Out-of-pocket reductions to help with cost sharing (e.g., co-payments and co-insurance)

**133% FPL**  
Individual =  
\$14,484  
Family of 4 =  
\$29,726

**400% FPL:**  
Individual=  
\$43,560  
Family of 4=  
\$89,400

# Federal Poverty Guidelines

## 2011 Federal Poverty Guidelines Chart

Persons in Family	48 Contiguous States & D.C.	Alaska	Hawaii
1	\$10,890	\$13,600	\$12,540
2	14,710	18,380	16,930
3	18,530	23,160	21,320
4	22,350	27,940	25,710
5	26,170	32,720	30,100
6	29,990	37,500	34,490
7	33,810	42,280	38,880
8	37,630	47,060	43,270
Each additional person, add	3,820	4,780	4,390

**SOURCE:** *Federal Register*, Vol. 76, No. 13, January 20, 2011, pp. 3637-3638

# Health Insurance Premium Tax Credit

**Eligibility:** Household Income between 100- 400% FPL and NOT eligible for minimum essential coverage through an employer

**Credit calculation** = Premium cost for benchmark plan (second lowest silver plan) – taxpayer’s applicable percentage

Household Income as a % of Federal Poverty Line (FPL)	Initial Percentage	Final percentage
Less than 133% FPL	2.0%	2.0%
133 - 150% FPL	3.0%	4.0%
150 – 200 % FPL	4.0%	6.3%
200- 250% FPL	6.3%	8.05%
250 – 300 % FPL	8.05%	9.5%
300 – 400% FPL	9.5%	9.5%

# Example:

## *Calculating Premium Assistance Tax Credit*

### Inputs

- Benchmark premium = \$5,200
- Household Income (MAGI) = \$27,225  
(250% FPL/individual)
- Applicable % = 8.05%

**Premium Assistance Tax  
Credit Calculation=**  
 $\$5,200 - \$2,192 = \$3,008$

- If actual Tax Credit > Advanced Payment, taxpayer receives **income tax refund.**
- If Advanced Payment > Credit, then must re-pay
  - Repayment is capped for those earning < 400%FPL

# 2014: State Health Insurance Exchanges

## What is an exchange?

A marketplace for individuals and small businesses to shop for insurance.

- Offer a choice of health plans
- Standardize health plan options
- Allow consumers to compare plans based upon price
- Intended to provide a more competitive market
- Provides consumers with a neutral party to assist with plan enrollment, information and eligibility determination for any subsidies

In Missouri the bill passed to set up exchange but it is not yet formed

## Who can participate?

- In 2014, small employers can offer an Exchange plan as their employer health plan
- **Individuals:** Includes self-employed or unemployed individuals (2014)
- In 2017, states can allow **large employers** to participate
- Each state must establish a health insurance **exchange**
- HHS Secretary to establish the rules around exchanges

# 2014: Exchange Plans

## Types of exchange plans to be offered by insurers

- **Bronze** = 60% actuarial value
- **Silver** = 70% actuarial value
- **Gold** = 80% actuarial value
- **Platinum** = 90% actuarial value
- **Catastrophic plan**
  - ◇ Only available to individuals < 30 years old, or those exempted from the individual mandate due to unaffordability or hardship.
  - ◇ Plan must cover:
    - “minimum essential benefits”
    - a minimum of three primary care visits per year
- All exchange “metal” plans must cover essential health benefits, limit cost-sharing and have a specified actuarial value

# 2014: Potential Large Employer Penalties

## Law does NOT require employers to offer health insurance

- Beginning in 2014, employers with 50+ FTEs must pay a “shared responsibility” penalty if any FT employee receives Exchange subsidies
  - Different penalties whether or not employer offers affordable, “**minimum essential coverage**” to employees
  - **Minimum essential coverage** = Plan with 60% actuarial value
  - **Affordable** = Employee premium cost < 9.5% of household income

**FTE** = FT employees  
+ FT equivalents

**FT employee** =  
works avg. 30 or  
more hours per  
week

**FT equivalents** =  
Hours worked in a  
month by all PT  
employees divided  
by 120

# Employer “shared responsibility” penalty

Penalty only assessed if a FT employee receives Exchange subsidies.

- **No or Inadequate Insurance Penalty**
  - \$2,000 x each full-time worker (after first 30 workers)
- **Unaffordable Employer Coverage Penalty**
  - At least, \$3,000 x # of full-time employees who receive exchange subsidies
  - Maximum penalty = \$2,000 x each full-time employee (except for first 30 full-time workers) penalty
  - No penalty for Medicaid eligible employees

*Employees are not eligible for Exchange subsidies if their employer coverage is deemed “affordable”*

“**Affordable**” means the employee premium contribution under the employer plan is **less than** 9.5% of their household income

# Key Provisions of Aug. 12 Proposed Rules

- **Affordability for Employee:** If employee's premium cost for self-only coverage is less than 9.5% of their W-2 wages for the employer, the health insurance is considered affordable even if they have a family and take family coverage
  - It appears that if coverage is affordable for employee but not their family, the employer will not pay a penalty.
  - Employer's not subject to penalty if employee receives tax credit but later employer-sponsored insurance is determined to be affordable.
  - **Affordability for related individuals:** For premium tax credits eligibility = cost of self-only coverage related to household income; for the individual mandate penalty = family coverage premiums in proportion to household income.
- **Must file tax return:** All individuals receiving an advanced premium assistance tax credit must file an income tax return, regardless if they are otherwise required to file.

# 2014: Auto-enrollment for Large Employers

- Employers with 200+ FT employees will be required to auto-enroll employees into their employer-sponsored health plan but can opt out
- Originally, effective January 1, 2011, implementation is delayed until U.S. Dept. of Labor issues rules expected prior to 2014.
  - Definition of full-time employee
  - Clarity around which plan to enroll employee into if multiple plans offered
  - Specifics on opt-out notification

# Key Future Anticipated Regulations

- Anticipated to provide employer safe harbor from penalty assessment if they meet certain requirements
- Employer large group plans will not be required to cover all of the essential benefits or 10 categories of benefits.
- May provide some transition relief with respect to meeting the “minimum value” requirement for plans



# HIP Calculator

CliftonLarsonAllen LLP  
Health Insurance &  
Penalty (HIP) Calculator

# Employer Health Insurance & Penalty (HIP) Costs

<b>Impact of Employer Health Insurance Reforms</b>		
Full-Time Employees	1,922	<i>(1,319 Insured / 603 Waived)</i>
Total Staffed	2,725	<i>(106 PT Insured/697 PT No ESI)</i>
2014 PPACA FTEs	2,361	

<b>HEALTH REFORM KEY DRIVERS</b>		
<b>Today's Single Coverage Employer Premium Cost</b>		
Average Single Employer Cost	\$	4,030
Employer Contribution %		81%

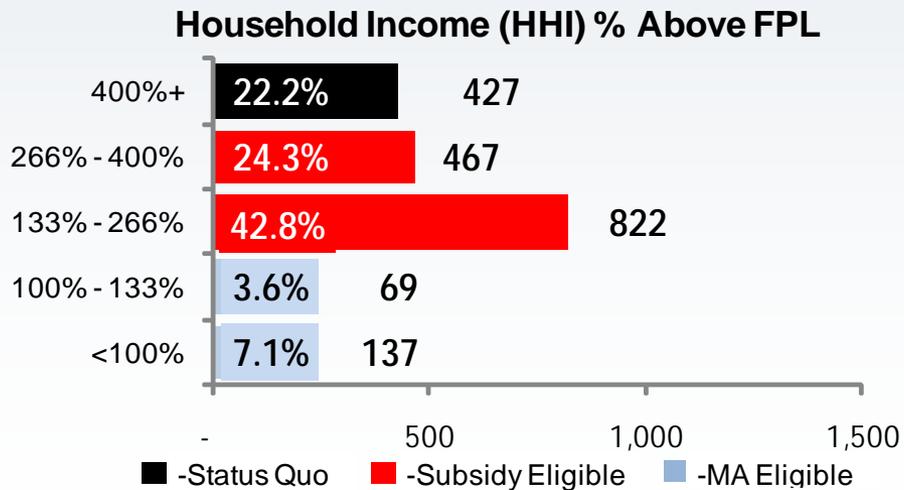
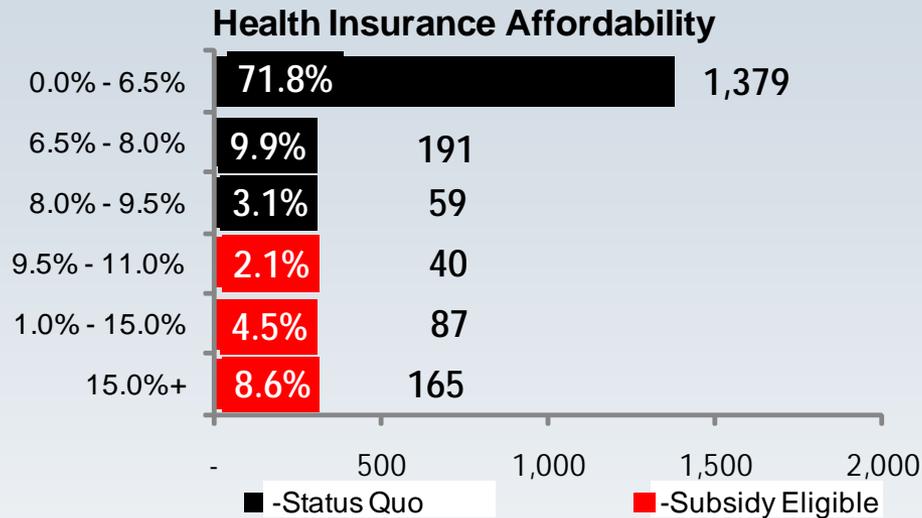
<b>Medicaid Eligible Employees</b>		
Total MA Enrollees		206
Estimated MA Cost Savings	\$	577 <i>(\$000s)</i>

<b>Employer Unaffordable Coverage Penalty</b>		
Subsidy Eligible Full-Time Employees		59
Subsidy (\$3,000)	\$	3
Estimated Subsidy Penalty	\$	177 <i>(\$000s)</i>
% Total Full-Time Employees		3.1%

<b>Employer No ESI Insurance Penalty</b>		
Total Full-Time Employees		1,922
Less: 30 Employees		(30)
Adjusted Full-Time Employees		1,892
No Insurance Penalty (\$2,000)	\$	2
Estimated Subsidy Penalty	\$	3,784 <i>(\$000s)</i>
2014 Pre Reform Projected HC Costs	\$	8,224 <i>(\$000s)</i>
Estimated Net Savings	\$	4,440 <i>(\$000s)</i>

<b>HEALTH REFORM SUBSIDIES IMPACT ON HEALTH COSTS</b>			
<b>Post Acute Organization (\$000s)</b>	<b>Today's Cost</b>	<b>2014 Offer Coverage</b>	<b>2014 Drop/Don't Offer</b>
Baseline Premium Cost	\$ 5,826	\$ 5,826	\$ 5,826
2011-2014 Premium Increase (9.0% / Yr)	-	2,398	2,398
Adjusted Premium Cost	5,826	8,224	8,224
Post Tax Adjusted Premium Costs	3,787	5,346	5,346
<b>PLUS: Additional Reform Impact</b>			
Previously Waived FT Employees	-	2,827	-
Increased Employer Premiums	-	-	-
Penalty: Subsidy Eligibles & ESI	-	177	-
Health Reform Increased Cost	-	3,004	-
<b>LESS: Previous Premium Liabilities</b>			
Medicaid Employee ESI	-	(577)	-
Subsidy Eligible FT Employees ESI	-	(384)	-
Health Reform Decreased Cost	-	(961)	-
<b>No Minimal Essential Coverage</b>			
Less: 2014 Inflation Adjusted HC Cost	-	-	(8,224)
Plus: Subsidy Eligible Penalty	-	-	3,784
Health Reform No ESI Cost	-	-	(4,440)
Adjusted HC Costs	\$ 5,826	\$ 10,267	3,784
HC Cost Change to 2014 Projected		\$ 2,043	\$ (4,440)
% HC Cost Change to 2014 Projected		25%	-54%
Tax Adjusted HC Costs	\$ 3,787	\$ 6,735	3,784

# Employee Exchange Subsidy Eligibility Factors



Exchange Subsidy Eligibility =

Affordability

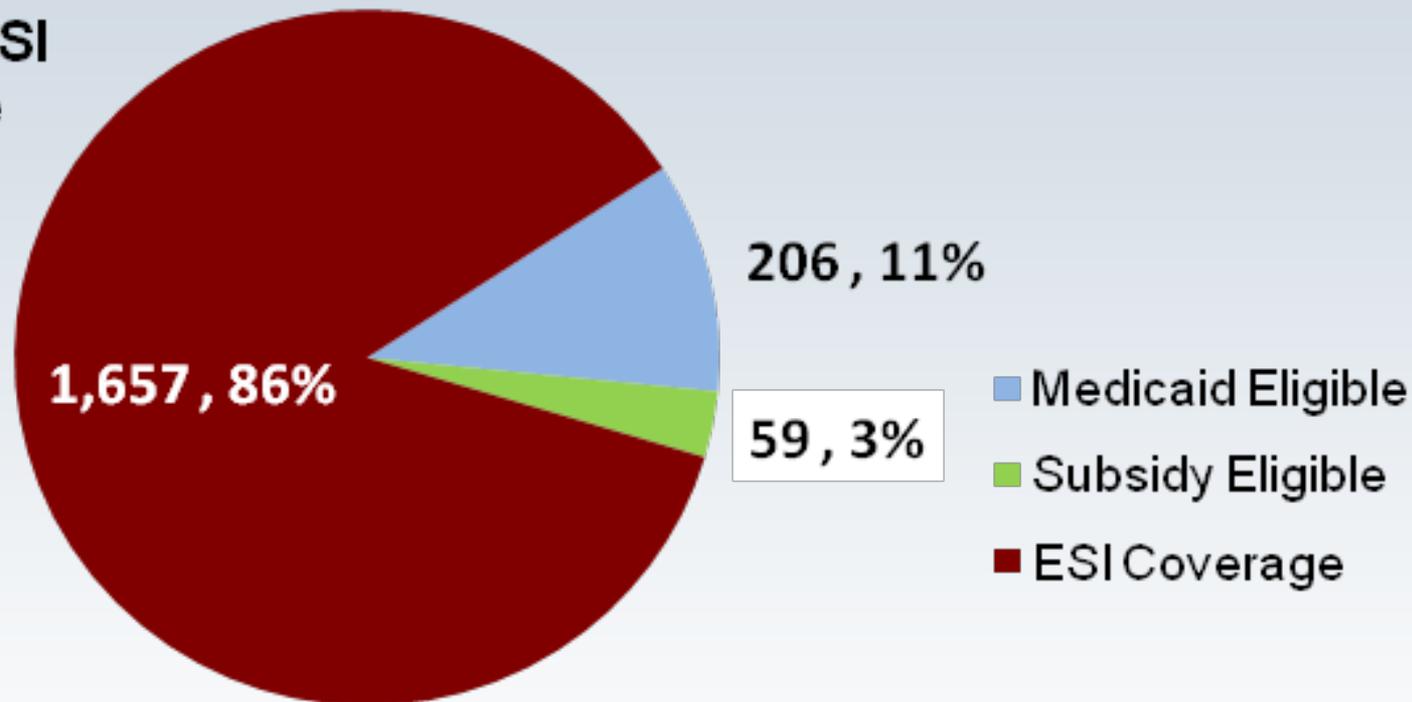
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133-400% of FPL

In 2014, employer pays penalty when a FT employee is eligible for Exchange Subsidy.

# 2014 Coverage Breakdown

## Post Reform ESI FT Employee Mix



***We estimate that 3% of your full-time employees will be eligible for Exchange subsidies, while 86% will continue to be covered by your current ESI.***

# Per Employee Cost Perspective

# Health Insurance and Penalty (HIP) Calculator

**HEALTH CARE REFORM**

**HOW MUCH MORE WILL HEALTH REFORM COST MY BUSINESS?**

**Find Out**

**2011** **2012** **2013** **2014**

[www.larsonallen.com/HIP](http://www.larsonallen.com/HIP)

# Resources

- For updated guidance, proposed rules and other information about PPACA implementation issues:  
<http://www.irs.gov/newsroom/article/0,,id=220809,00.html>
- Proposed rule on the Health Insurance Premium Tax Credit:  
<http://www.gpo.gov/fdsys/pkg/FR-2011-08-17/pdf/2011-20728.pdf>

# Thank You! Questions?

**Chad Kunze**

Partner

CliftonLarsonAllen LLP

[chad.kunze@cliftonlarsonallen.com](mailto:chad.kunze@cliftonlarsonallen.com)

314-925-4321

**Darrell Songer**

Partner

CliftonLarsonAllen LLP

[darrell.songer@cliftonlarsonallen.com](mailto:darrell.songer@cliftonlarsonallen.com)

314-925-4394



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