Health Care Reform
Connecting the Dots

Getting Ready for Health Reform

Minnesota Automobile Dealers Association (MADA)

Learning Objectives

- **This session will provide you with an understanding of the following Health Reform topics:**
  - Overview of Health Reform Law
  - Implementation timeline for key provisions
  - Mandated health insurance coverage provisions for employers and individuals
  - Health Reform Definitions
  - Health Insurance & Penalty (HIP) Calculator : A practical approach to calculating employer costs

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Understanding the Health Reform Law – Overview

- **Health Reform law seeks to expand access to health coverage by:**
  1) Expanding Medicaid eligibility
  2) Developing a new marketplace for purchasing insurance ("Exchange")
  3) Mandating individuals enroll in health insurance
  4) Imposing penalties on large employers who do not offer coverage, or offer coverage that is unaffordable
  5) Subsidizing low and middle-income individuals in the Exchange

Why Reform Health Care?

"Health care in America is badly organized, highly inconsistent, internally dysfunctional, sometimes brilliant, almost always compassionate, close to data free, amazingly unaccountable in key areas, too often wasteful, too often dangerous, and extremely expensive. Care costs more in America than it does anywhere else in the world—by every measure. Care costs more per person, more by the unit, more by the dose, more by the disease, and more in the aggregate. We spend far more than anyone else in the world on care, and we are alone among the industrialized countries in not covering all of our people. We need to do a lot better."

George Halverson, Health Care Will Not Reform Itself.

- Kaiser Permanente CEO – Largest non profit health plan and hospital system in the United States
- Former CEO of HealthPartners

Forces Driving Reform

Cost to quality

Growing uninsured population

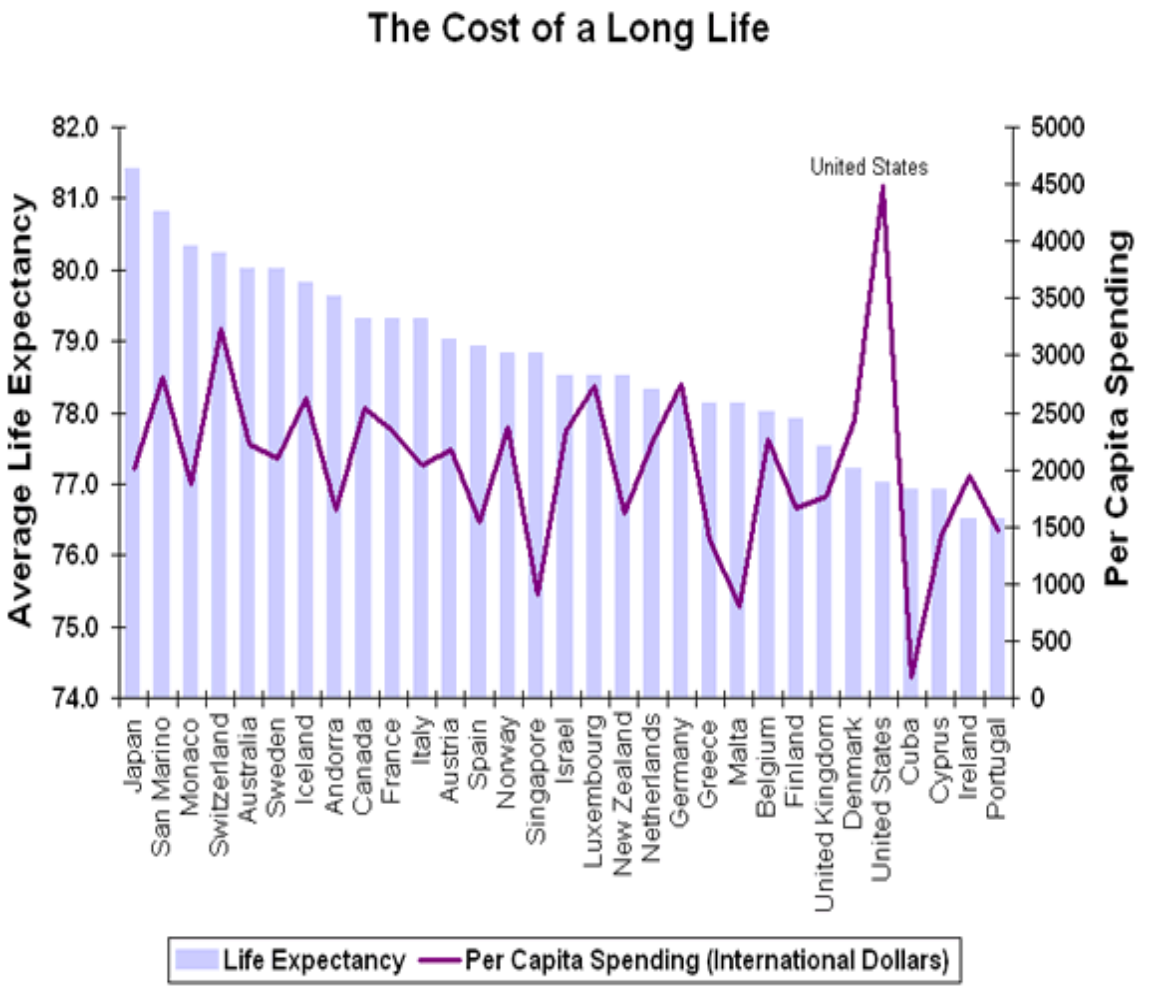
Exponential growth in expenditures

Looming Medicare insolvency

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://ucatlas.ucsc.edu/spend.php**

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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

Impact of the Act:
- Cost: = $940 billion/ 10 yrs
- Coverage = 32+ million by 2019

- Since passage, numerous additional laws have been passed amending portions of original laws, and rules/guidance issued.

Supreme Court Examines Constitutionality

U.S. Supreme Court Ruling: June 28, 2012

Individual Mandate
- Constitutional

Entire Affordable Care Act
- Stands

Medicaid Expansion
-State Option

Reform Summary Timeline

2010

- *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.***
- ***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.***

2011

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

2012

- ***Large employers to disclose health insurance benefits on W-2s.***
- *CLASS Act: National voluntary LTC insurance program established. – ON HOLD*
- ***Health plans to pay per participant fee to fund Comparative Effectiveness Research Institute.***
- ***Preventive health benefits covered without cost sharing.***

Reform Summary Timeline *(cont'd)*

2013

- *Health insurers required to begin following administrative simplification regulations.*
- ***Limits placed on flexible spending accounts.***
- ***New 3.8% Medicare Tax for Unearned Income*** *.*
- ***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***

2014

- ***State and federal 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.*
- ***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*

2015 - 2018

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

Key Employee Notification Requirements

1. Notice of grandfathered health plan status
   - Must include a statement describing the health plan benefits and contact information for questions or complaints, as part of plan materials provided to participants (for plans in existence on 3/23/10)
2. Notice of key plan design changes (effective 1/1/11)
   - Annual and lifetime limit changes
   - Eligibility for dependent coverage of adult children
   - Primary care physician designation and OB/GYN self-referral change
3. Summary of medical benefits (starting 9/23/12)
4. Summary of material changes (effective 9/23/12)
5. Summary of plan's care management process (effective 9/23/12)
6. Notice of eligibility for health insurance exchange (effective 3/1/13)

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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 large employers in 2012
- W-2 reporting of health care costs applies to W-2s issued for 2012 benefits.

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2012: W-2 Disclosure of Health Coverage Cost

- **Disclosed amount is NOT taxable to employee**
- **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 ; updated Notice 2012 – 9: http://www.irs.gov/pub/irs-drop/n-12-09.pdf
- **2012 W-2 form:** http://www.irs.gov/pub/irs-pdf/fw2.pdf

Pending Implementation: Fully-insured plans can no longer discriminate

- **Expands the nondiscrimination rules to cover <u>fully-insured</u> 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

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
- Funding of Patient Centered Outcomes Research Institute (Nonprofit Corp)

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
    - ◊ > $27,500 family coverage

IRS Notice 2011-35: Proposed guidance, seeking comment

2013: Contribution Limits on Flexible Spending Accounts

- Places an annual limit on employee's FSA contributions to $2500.
  - 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.

2014: Insurance Reforms

- Requires insurers to guarantee issue and renew their insurance products
  - No exclusions for pre-existing conditions for all.
- In individual and small group market, insurers are prohibited from charging higher rates based upon gender or health status.
- Eliminates all annual limits on coverage

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, or 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

133% FPL
Individual = $14,856
Family of 4 = $30,656

- **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)

400% FPL:
Individual= $44,680
Family of 4= $92,200

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Cost Sharing Subsidies

- **Federal government will pay insurers to reduce the cost sharing for individuals:**
  - –Enrolled in a silver-level plan through an Exchange and
  - –Whose household income is between 100-400% FPL

Household income as % of FPL	Cost sharing Reduction
100-200% FPL	Two-thirds
200-300% FPL	50%
300-400% FPL	One-third

- **Reductions don't apply to benefits not included in the federal definition of "essential health benefits"**

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

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 l**arge employers** to participate

- Each state 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

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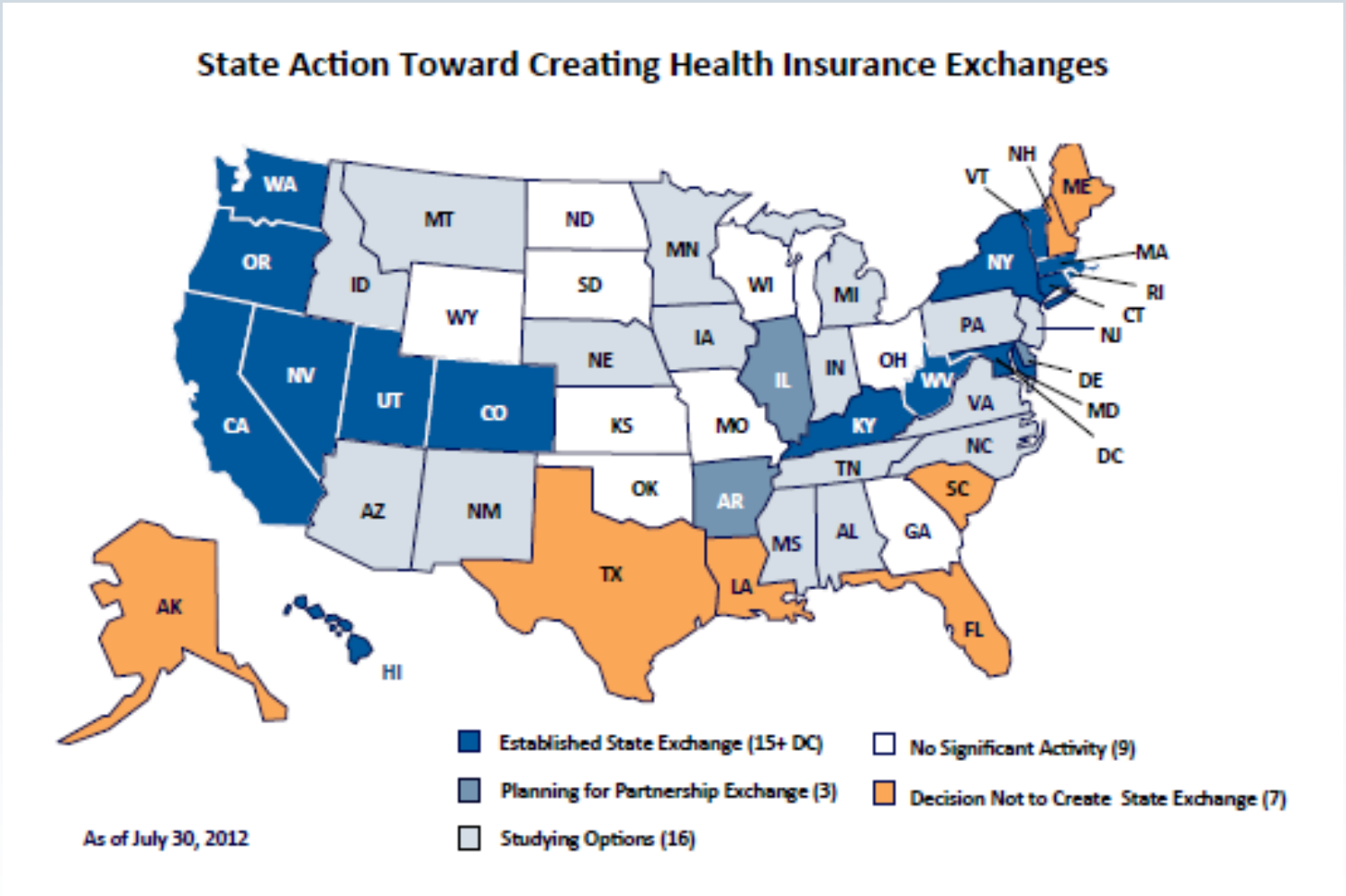
Defining Essential Benefits Package

- ACA specifies:
  - 10 categories of benefits to be included and
  - benefits in a typical employer-sponsored plan.
- Defined by states, choosing from one of three options
  - One of the three largest products in the small group market in the state
  - One of the three largest health plans offered to federal or state employees, or
  - the Health Maintenance Organization (HMO) with the largest commercial enrollment in the state.
- States will need to fill in certain benefits specified by the ACA that are often not included in benefit plans today, such as habilitation and pediatric dental services.

State Health Insurance Exchange Development Activity as of 7/30/12



Source: **Establishing Health Insurance Exchanges: An Overview of State Efforts, August 2012,** Kaiser Family Foundation, as accessed at: http://www.kff.org/healthreform/upload/8213-2.pdf on August 24, 2012

Next Supreme Court Challenge?

State vs. Federal Exchange & Subsidy Eligibility

- Law requires states to establish a Health Insurance Exchange (HIX) or Federal government will establish one for its citizens.
- Some states opting not to establish a State HIX.
- **The Question**: If a state has a Federal Exchange not a State Exchange, are its citizens still eligible for the premium tax credits and cost sharing assistance established in ACA?
  - If yes, then large employer penalties may be incurred
  - If no, then employers are not in jeopardy of penalties being assessed if they don't offer coverage or if their employer plan isn't affordable

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 value"** 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

For "minimum essential coverage", see IRS Notice 2012-31 at: http://www.irs.gov/pub/irs-drop/n-12-31.pdf

Employer "shared responsibility" penalty

Penalty only assessed if a FT employee receives Exchange subsidies.

- **No or Inadequate Insurance Penalty**
  - $2000 x each full-time worker (after first 30 workers)
- **Unaffordable Employer Coverage Penalty**
  - At least, $3000 x # of full-time employees who receive exchange subsidies
  - Maximum penalty = $2000 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

2014: Other Employer Requirements

- **Government reporting obligations**
  - Names of FT employees on the health plan
  - Employer contribution levels to employee coverage
  - Plan waiting period length
  - Whether employer-sponsored plan meets "minimum essential coverage" requirements

- **Large Employers to auto-enroll:** Employers with 200+ FT employees will be required to auto-enroll employees into their employer-sponsored health plan
  - Employees can opt out
  - Won't be effective until U.S. Dept. of Labor issues rules, which won't be effective by 2014.

- **90-day limit on waiting period for coverage**
  - No employer penalties assessed for employees to which waiting period applies.
  - See IRS Notice 2012-59 for further details.

Employer Safe Harbors Established

IRS Notice 2012-58

- **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 enroll in family coverage.
  - Under this set of circumstances, the employer will not pay a penalty.
  - This definition does not impact employee's eligibility for premium tax credits.
  - 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**: Awaiting guidance on this subject.

Employer Safe Harbors (continued)

- **Defining full-time employee**: Defines measurement and stability periods for determining and applying this status for ongoing employees, new employees expected to work full-time, and variable hour and seasonal workers.
  - Through at least 2014, employers are permitted to use a reasonable, good faith interpretation of the term "seasonal employee" for purposes of this notice.
- **These safe harbors are applicable until future guidance may be issued but no earlier than January 1, 2015.**
- **IRS Notice 2012-58 details available employer safe harbors.**

CLIFTONLARSONALLEN HEALTH INSURANCE & PENALTY (HIP) CALCULATOR

Health Reform Definitions

- **Employer-Sponsored Insurance** (“**ESI**”) – represents the current health insurance coverage offered by an employer to its employees.
- **Health Insurance Exchange** (“**Exchange**”) – an exchange is an insurance marketplace where individuals, or certain small business employees, can purchase insurance as part of a large risk pool. Each state must establish its own exchange or a federal exchange option will be provided. Four plan levels will be offered.
- **Full-Time Employee** – Working an average of 30+ hours per week, annually.
- **Waived** – A full-time employee who elects not to obtain health insurance through the employer. Future coverage decisions made by these employees will impact the employer’s total health care costs.

Health Reform Definitions (Continued)

- **Exchange Subsidy** – Individuals who meet the income and health insurance affordability criteria will be eligible for premium and cost sharing (e.g. deductibles, co-payments) subsidies in the **Exchange.**
  - **Affordable Insurance** – Employee premium cost is less than 9.5% of Household Income.
  - **Household Income (HHI)** – An employee's adjusted gross income (AGI) as reported on their annual tax return. The baseline simulation uses employee taxable wages as a proxy for AGI (EXCLUDES spousal income). Alternate scenarios can be considered. HHI will be assessed in relation to FPL to determine eligibility for **Exchange** subsidies.
  - **Federal Poverty Level (FPL)** – Government-established income thresholds used to determine eligibility for assistance through various federal programs.

Health Reform Definitions (Continued)

- **Penalty** – Assessed on individuals who fail to obtain adequate health insurance in 2014 and beyond. Assessed on certain employers who have employees that access subsidies and purchase insurance through the Exchange in 2014 and beyond.
  - **Employer Penalty for No or Inadequate Insurance:** $2,000 x all full time employees (minus the first 30 FT employees) if no ESI provided, or ESI actuarial value is less than 60%
  - **Employer Penalty for Unaffordable Employee Insurance:** $3,000 x # of employees receiving exchange subsidies due to low income and unaffordable insurance premiums

What are the key cost drivers?

- How many full-time employees vs. FTEs?
- Do they offer Employer Sponsored Insurance (ESI)?
- Affordability of ESI offered
  - Employer's contribution toward employee's health insurance premiums compared to penalty costs
  - Employee's wages compared to federal poverty
- Number of employees that enroll in ESI
- For profit vs. non-profit

Employer Health Insurance & Penalty (HIP) Costs

Impact of Employer Health Insurance Reforms

Full-Time Employees	1,922	*(1,319 Insured / 603 Waived)*
Total Staffed	2,725	*(106 PT Insured/697 PT No ESI)*
2014 PPACA FTEs	2,361	

HEALTH REFORM KEY DRIVERS

Today's Single Coverage Employer Premium Cost

Average Single Employer Cost	$ 4,030	
Employer Contribution %	*81%*	

Medicaid Eligible Employees

Total MA Enrollees	206	
Estimated MA Cost Savings	$ 577	*($000s)*

Employer Unaffordable Coverage Penalty

Subsidy Eligible Full-Time Employees	59	
Subsidy ($3,000)	$ 3	
Estimated Subsidy Penalty	$ 177	*($000s)*
% Total Full-Time Employees	*3.1%*	

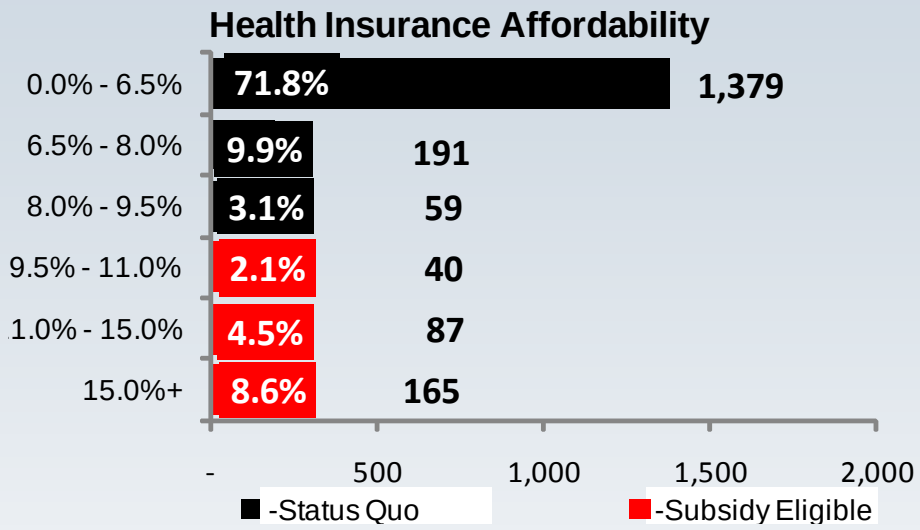
Employer No ESI Insurance Penalty

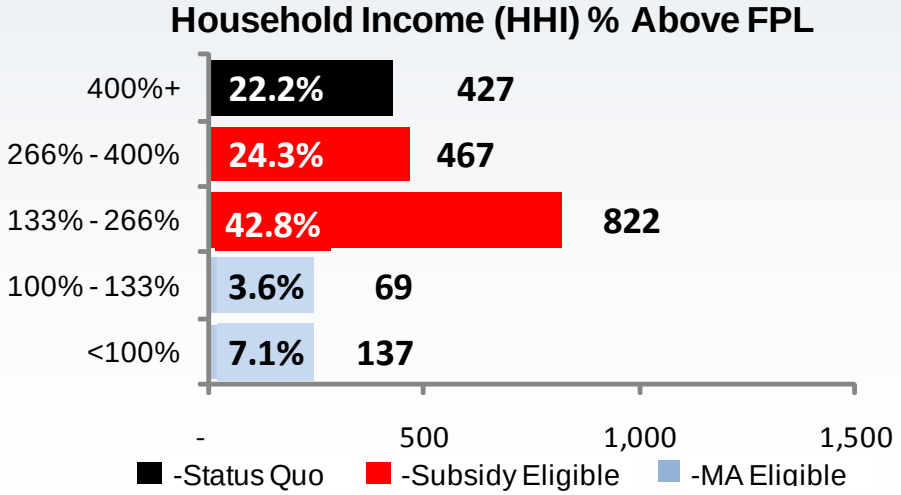
Total Full-Time Employees	1,922	
Less: 30 Employees	(30)	
Adjusted Full-Time Employees	**1,892**	
No Insurance Penalty ($2,000)	$ 2	
Estimated Subsidy Penalty	$ 3,784	*($000s)*
2014 Pre Reform Projected HC Costs	*$ 8,224*	*($000s)*
Estimated Net Savings	*$ 4,440*	*($000s)*

HEALTH REFORM SUBSIDIES IMPACT ON HEALTH COSTS

Post Acute Organization ($000s)	Today's Cost	2014 Offer Coverage	2014 Drop/ Don't Offer
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
PLUS: Additional Reform Impact			
Previously Waived FT Employees	-	2,827	-
Increased Employer Premiums	-	-	-
Penalty: Subsidy Eligibles & ESI	-	177	-
Health Reform Increased Cost	-	3,004	-
LESS: Previous Premium Liabilities			
Medicaid Employee ESI	-	(577)	-
Subsidy Eligible FT Employees ESI	-	(384)	-
Health Reform Decreased Cost	-	(961)	-
No Minimal Essential Coverage			
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



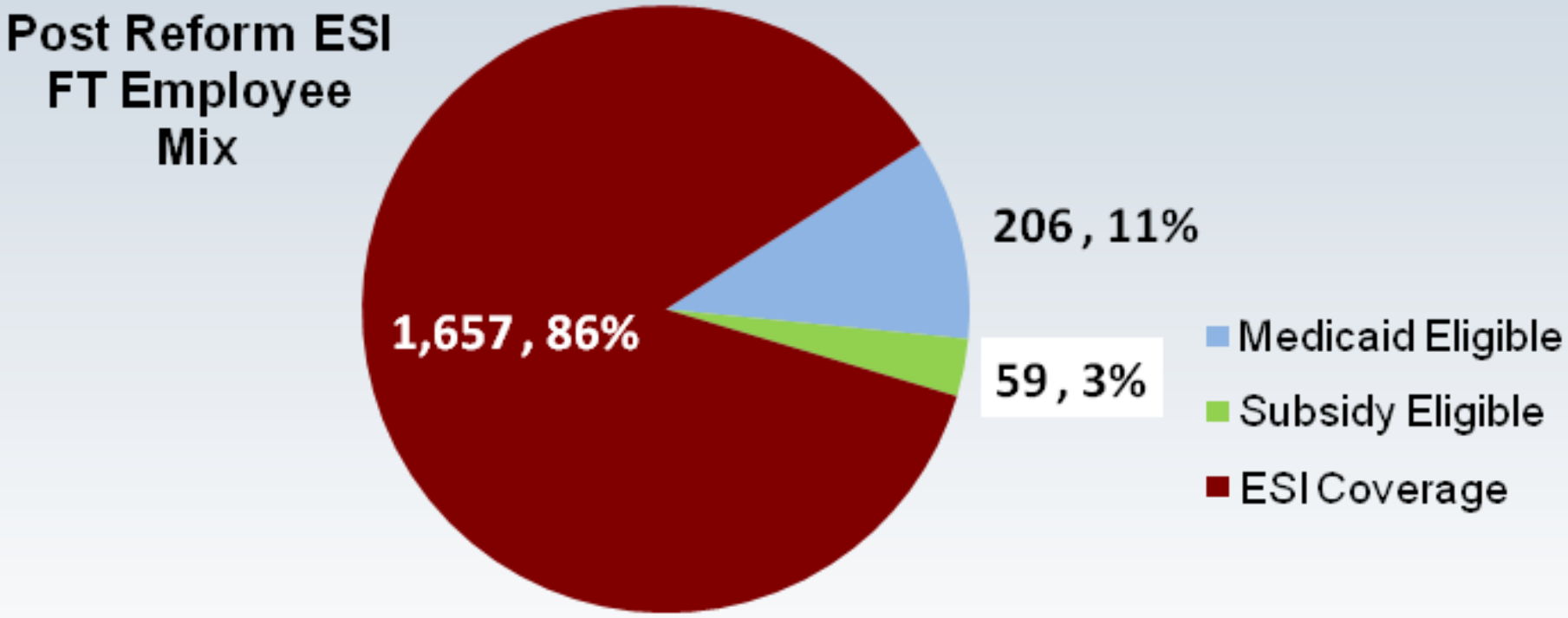


Exchange Subsidy Eligibility =

Affordability
+
133-400% of FPL

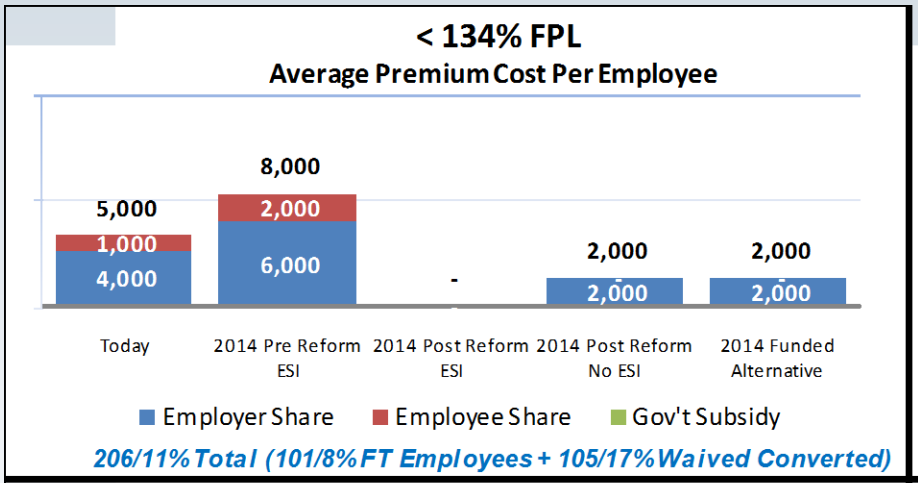
In 2014, employer pays penalty when a FT employee is eligible for Exchange Subsidy.

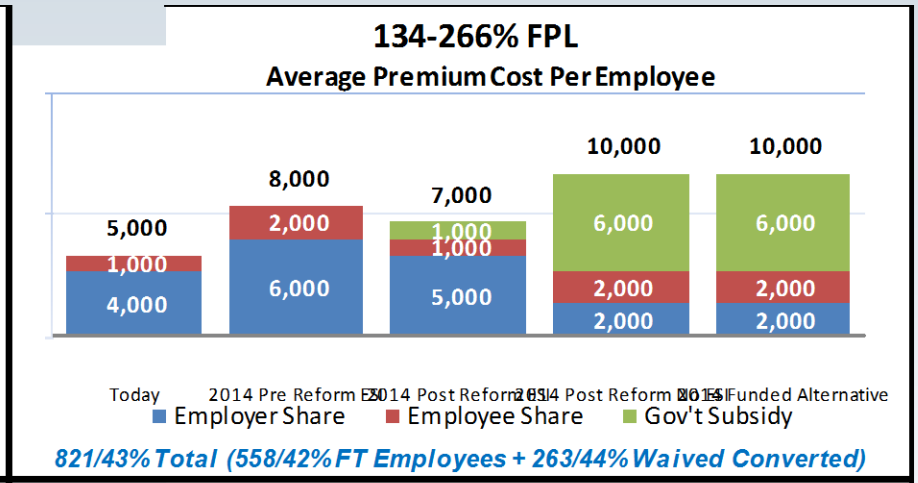
2014 Coverage Breakdown

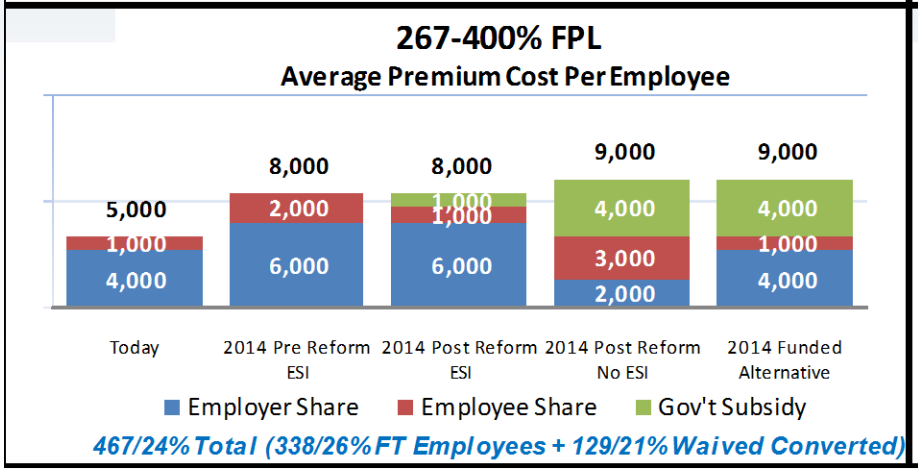


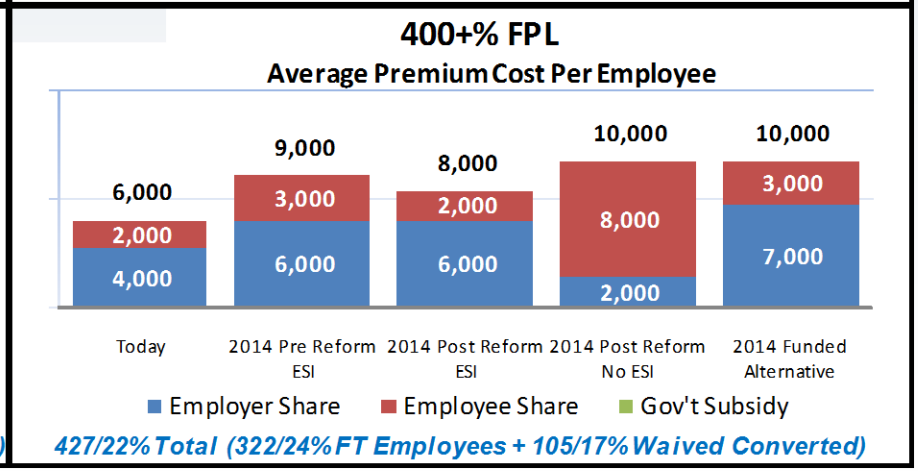
We estimate that 3% of your full-time employees will be eligible for Exchange subsidies, while 86% will continue to be covered by your current ESI.

Per Employee Cost Perspective





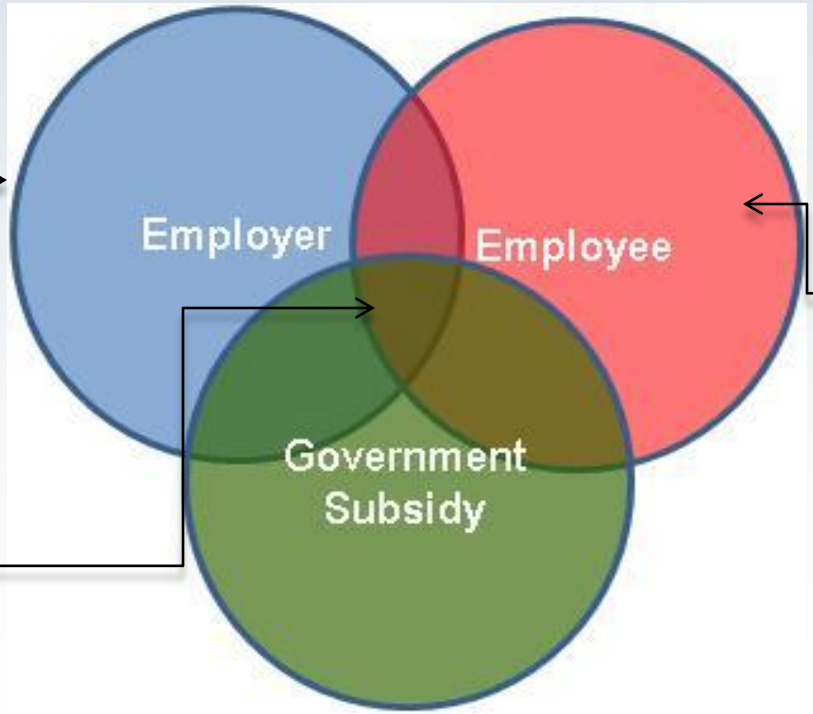




Achieving a Win / Win?

Opportunities **may** exist where **"WIN / WIN"** scenarios for **both** employers and employees may be constructed

Employer Wins
1) Profitability
2) Competitive Workforce



Employee Wins
1) Adequate Insurance
2) Affordable Coverage

WIN / WIN
Where Employer & Employee interests meet, & Government subsidies are maximized

Health Insurance and Penalty (HIP) Calculator

www.cliftonlarsonallen.com/HIP

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