Healthcare Reform

Past, Present & Future

Leah Vetter | April 2018

Gallagher

Insurance | Risk Management | Consulting

But First, a history lesson

Gallagher
Insurance | Risk Management | Consulting

1854: Bill for the Benefit of the Indigent Insane
1954: Sections 105 and 106 added to the Internal Revenue Code
1965: Medicaid and Medicare
1974: Employee Retirement Income Security Act of 1974 (ERISA)
1978: Section 125 added to the Internal Revenue Code
1985: Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)
1996: Health Insurance Portability and Accountability Act (HIPAA)
1996: Mental Health Parity Act
2003: Medicare Prescription Drug, Improvement, and Modernization Act
2008: Mental Health Parity and Addiction Equity Act
2010: Patient Protection and Affordable Care Act (PPACA)

PPACA – What It Does

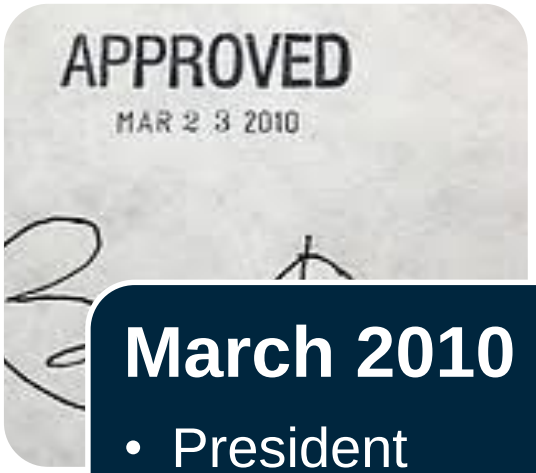
- Individual mandate
- Marketplace coverage and subsidies
- Reporting to the IRS
- Employer shared responsibility (“pay or play”)
- PCORI fee, transitional reinsurance fee, Cadillac tax
- Dependent age 26 mandate; preexisting condition protections; coverage guarantees
- Elimination of lifetime and annual limits; OOP limits*
- Medicaid expansion
- “First-dollar” prevention benefits

PPACA Timeline of Events

Gallagher
Insurance | Risk Management | Consulting

July 2009

- H.R. 3962 Nancy Pelosi Reveals plan for health-care system overhaul



March 2010

- President Obama signs the Affordable Care Act into law

2010

Gallagher
Insurance | Risk Management | Consulting

- **Grandfathered plan requirements**
- Early retiree reinsurance
- Temporary high-risk pool
- HHS consumer web portal
- Preexisting Condition Exclusion prohibition for those under age 19
- Annual/lifetime limits prohibited on essential benefits (some annual limits may apply until 2014)
- Rescission prohibition
- **Preventive health services**
- **Dependent coverage for children under age 26**
- Nondiscrimination for insured plans application/enforcement—delayed pending additional guidance. Agencies have indicated that employers are not required to comply with this requirement until regulations are issued.
- Appeals process
- Patient protections (primary care provider designations, ER services, etc.)
- Ensuring that consumers get value for their dollars (rate review)
- Automatic enrollment—no specific effective date. In sub-regulatory guidance, the DOL has indicated that employers are not required to comply with this requirement until regulations are issued.
- Small business healthcare tax credit
- Tax-free coverage to children under age 27 (see above regarding coverage mandate to age 26)

2011

Gallagher

Insurance | Risk Management | Consulting

- Expansion of preventive services under Medicare
- OTC drug limits
- Simple cafeteria plans
- HSA/Archer MSA penalty tax increase
- W-2 reporting (voluntary for 2011 tax year)
- Bringing down cost of coverage (reporting and rebates)—**minimum loss ratios**
- Small business grants to provide wellness programs

2012

Gallagher
Insurance | Risk Management | Consulting

- New, voluntary options for long-term care insurance (postponed indefinitely)
- Distribution of four-page **Summary of Benefits and Coverage and Uniform Glossary**
- Quality of care reporting—delayed pending regulations
- **W-2 reporting** (mandatory for 2012 tax year)

2013

Gallagher
Insurance | Risk Management | Consulting

- HIPAA electronic transaction standards
- Health FSA cap
- Loss of tax exclusion of Medicare Part D drug subsidy
- Increase in Code § 213 medical deduction
- New Medicare hospital insurance tax of 0.9 percent on high-income individuals*
- **New 3.8 percent Medicare payroll tax on unearned income for high-income individuals***
- **First payment of Patient Centered Outcomes Research Institute Fee is due. Fee increases from $1 per participant to $2 per participant for plan years beginning on or after November 1, 2012.**
- **Notices to employees about exchanges and subsidies**
- Co-ops

*$200,000 individual, $250,000 joint

2014

Gallagher
Insurance | Risk Management | Consulting

- **Exchanges**
- Transparency in coverage (QHP) reporting—reporting begins after QHPs have been in place one calendar year
- Fair health insurance premiums
- **Guaranteed availability of insurance coverage**
- **Guaranteed renewability of coverage**
- **Preexisting Condition Exclusion prohibition** (for all enrollees)
- Nondiscrimination based on health status
- Nondiscrimination against healthcare providers
- Comprehensive health insurance coverage
- **Cost-sharing limitations**
- Prohibition on excessive waiting periods
- **Coverage for clinical trials**
- **Annual/lifetime limits prohibited on essential benefits**
- Increase in small business healthcare tax credit
- Provision of additional information (Quality Reporting)—reporting required no earlier than reporting required for QHPs (see above)
- **Individual mandate**

2015

- **Employer Shared Responsibility for employers with 100 or more full-time and full-time equivalent employees**
- **Health insurance reporting coverage**
- **First payment of Transitional Reinsurance Fee is due**
- **First payment of Health Insurance Providers Fee is due**

2016

- Employer Shared Responsibility for employers with 50 to 99 full-time and full-time equivalent employees

Trump Campaign Platform on Health Care

Gallagher

Insurance | Risk Management | Consulting

PPACA

- Employer shared mandate
  - Who does it apply to; controlled group rules
  - Determining full-time employee status
  - Determining affordability
- Reporting
  - 1095-C / 1094-C for Applicable Large Employers
  - 1095-B / 1094-B for small, self-insured employers

PPACA

- Out-of-pocket maximums
  - $7,150 single / $14,300 family; embedded single OOP maximum
- HRAs and FSAs
  - Design requirements under PPACA
- PCORI fees
  - How much; due date
- Vendors selling plans that are “exempt from PPACA”
  - Excepted benefits are exempt from many PPACA provisions, but they have specific requirements

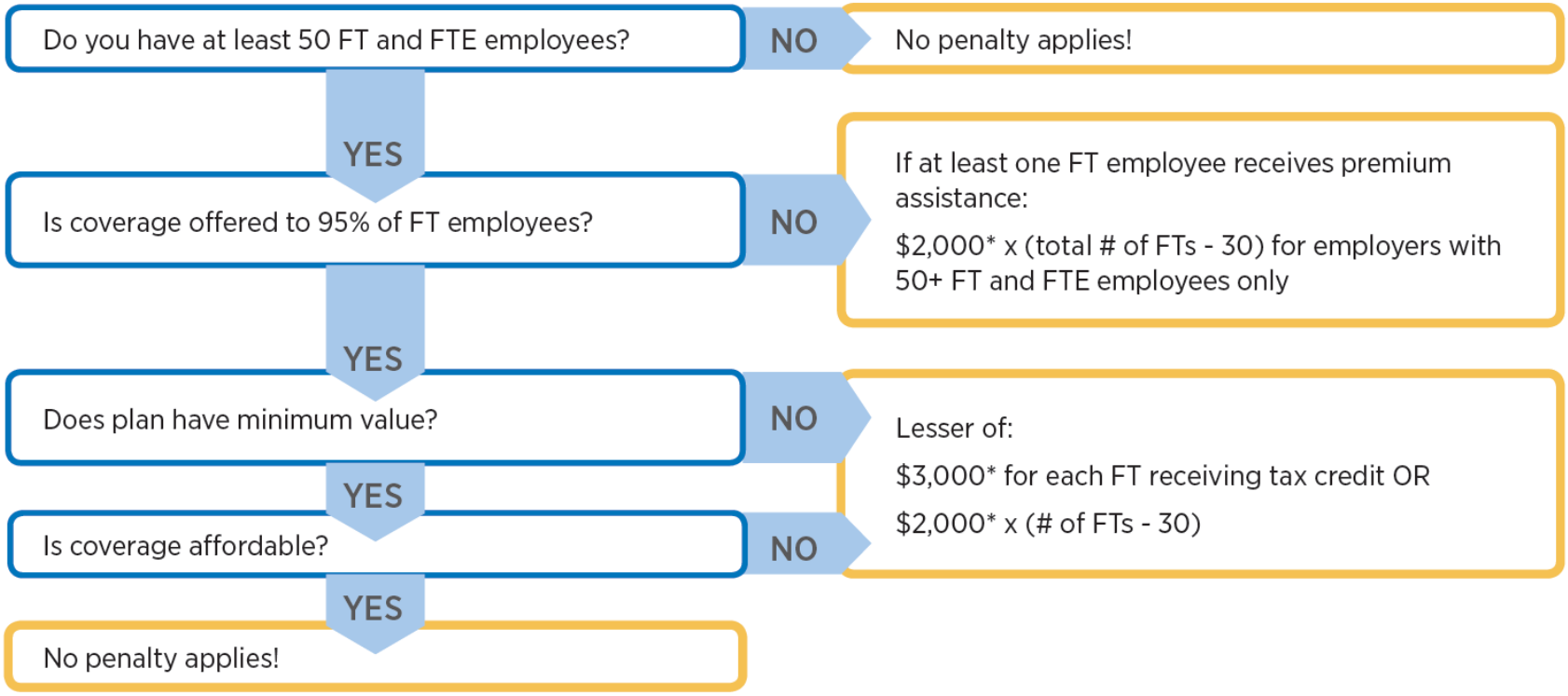
Gallagher

Insurance | Risk Management | Consulting

Employer Shared Responsibility

aka “Employer Mandate”

What does the ESR Mandate Mean?



Gallagher

Insurance | Risk Management | Consulting

What does the ESR Mandate Mean?

- What is “minimum value” coverage?
  - A health plan is deemed to provide minimum value if it’s designed to pay at least 60% of the total cost of medical services for a standard population
- What is “affordable” coverage?
  - If employees **pay more than 9.56%** of their household income towards the cost of the **lowest-cost employee-only coverage providing minimum value**, the coverage is considered **un-affordable**
    - Even if the employee contribution for family coverage exceeds 9.56% of the employee’s household income
  - ALEs may use one of three affordability “safe harbors” to determine affordability (W-2 earnings, rate of pay, Federal Poverty Level)

Gallagher

Insurance | Risk Management | Consulting

6055/6056 Reporting

Gallagher

Insurance | Risk Management | Consulting

6055/6056 Reporting

- **6055** helps to administer the **individual mandate**
  - Fully-insured plans – insurance company is responsible for 6055 reporting
  - Covered individuals receive a Form 1095-B
  - Used by IRS to determine whether individual had coverage for each month of the calendar year

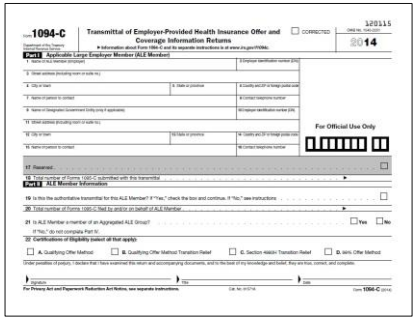
- **6056** helps to administer the **employer mandate**
  - Applicable Large Employers (ALEs) are responsible for 6056 reporting
    - Controlled groups with different tax EIN's must report separately.
  - Used by IRS to determine whether ALE offered coverage to all FT employees and family members, and whether coverage was affordable (which will determine if individuals are eligible for a premium tax credit on the Marketplace)

6055/6056 Reporting – What

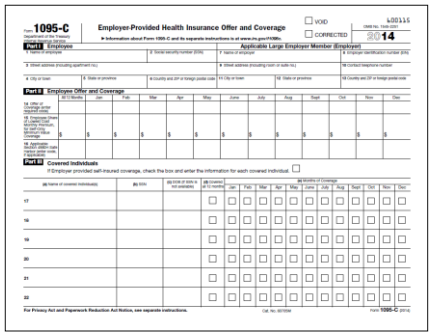
Gallagher
Insurance | Risk Management | Consulting

What is reported:

- Form **1094-C**
  - Reports employer-level information to the IRS on an annual basis
  - Transmittal form provided to the IRS (cover sheet)
  - Accompanies 1095-C's


Form 1094-C Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns
CORRECTED
120115
2014
Part I Applicable Large Employer Member (ALE Member)
For Official Use Only
Part II ALE Member Information

- Form **1095-C**
  - Reports employee-level information to the IRS on an annual basis
  - Statement provided to each FT (30+) employee and the IRS


Form 1095-C Employer-Provided Health Insurance Offer and Coverage
VOID
CORRECTED
120115
2014
Part I Employee
Applicable Large Employer Member (Employer)
Part II Employee Offer and Coverage
Part III Covered Individuals

6055/6056 Reporting – What

IRS Code § 6056 information reported on Form 1094-C:

- **ALE member information**
  - Address, EIN, contact person
  - Number of FT employees
  - Number of employees
- **Controlled group Information (if applicable)**
  - Names of controlled group members
  - EINs of controlled group members
  - Number of FT employees for each controlled group member

6055/6056 Reporting – What

IRS Code § 6056 information reported on Form 1095-C:

- **Employee Information**
  - Name, address, etc.
  - TIN/SSN
  - Was employee FT? During which months?
  - For self-insured plans,, information about “covered individuals”
  - Information needed for statement delivery (last known address, or consent for electronic delivery)
- **Information About Offers of Coverage**
  - Was coverage minimum value?
  - Was coverage affordable?
  - Employee **premium for self-only coverage under lowest-cost MV plan**
  - Were offers made to spouses and dependents?
  - Was MEC offered to a sufficient percentage of FT employees?

6055/6056 Reporting – How

- **Submitting to the IRS:**
  - Employers that file **at least 250 Forms 1095-C in a calendar year** are required to **file electronically**
  - Electronic filing optional for employers filing fewer than 250 forms
- **Distributing statements employees:**
  - **Employers must provide statements to all employees** ("responsible individuals") for whom forms were filed with the IRS
  - Can be sent with employee's Form **W-2**
  - **First class mail** to last known address
  - Electronically (**if employee consents to electronic delivery**)
  - Posting to a website (if employee consents to electronic delivery and employer separately notifies employee)
  - Employee can also request a paper copy

6055/6056 Reporting – When

- **Returns** (i.e., Form 1094-C and 1095-Cs) must be filed **annually with the IRS no later than February 28 (March 31 if filed electronically)** of the year immediately following the calendar year during which MEC was required to be provided.

- **Statements** to employees must be furnished annually **on or before January 31** of the year immediately following the calendar year during which MEC was provided.

Action Steps

Gallagher
Insurance | Risk Management | Consulting

- Identify types of employees
- Select measurement method(s)
- For look-back method – choose measurement, administration and stability periods
- Determine process for tracking hours and monitoring for changes in full-time status
- Consider a vendor to facilitate Counting Hours and the 6056 Reporting in preparation for when ALE status is attained.
- Gallagher Toolkits available at: http://www.ajg.com/knowledge-center/healthcare-reform/employer-resources/
  - ESR Mandate
  - Counting Hours
  - 6055/6056 Reporting

Thank You!

Gallagher

Insurance | Risk Management | Consulting

GBS USE ONLY

Gallagher

Insurance | Risk Management | Consulting

Consulting and insurance brokerage services to be provided by Gallagher Benefit Services, Inc. and/or its affiliate Gallagher Benefit Services (Canada) Group Inc. Gallagher Benefit Services, Inc., a non-investment firm and subsidiary of Arthur J. Gallagher & Co., is a licensed insurance agency that does business in California as “Gallagher Benefit Services of California Insurance Services” and in Massachusetts as “Gallagher Benefit Insurance Services.” Investment advisory services and corresponding named fiduciary services may be offered through Gallagher Fiduciary Advisors, LLC, a Registered Investment Adviser. Gallagher Fiduciary Advisors, LLC is a single-member, limited-liability company, with Gallagher Benefit Services, Inc. as its single member. Certain appropriately licensed individuals of Arthur J. Gallagher & Co. subsidiaries or affiliates, excluding Gallagher Fiduciary Advisors, LLC, offer securities through Kestra Investment Services (Kestra IS), member FINRA/SIPC and or investment advisory services through Kestra Advisory Services (Kestra AS), an affiliate of Kestra IS. Neither Kestra IS nor Kestra AS is affiliated with Arthur J. Gallagher & Co., Gallagher Benefit Services, Inc. or Gallagher Fiduciary Advisors, LLC. Neither Kestra AS, Kestra IS, Arthur J. Gallagher & Co., nor their affiliates provide accounting, legal, or tax advice