



**INSIDE**  
**The Affordable  
Care Act**



**PATIENT PROTECTION AND  
AFFORDABLE CARE ACT:  
SELECTED ISSUES**

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# PPACA IN A NUTSHELL...

- **Individuals** must obtain and maintain specified coverage or pay assessments. Federal tax credits and subsidies are available to qualifying individuals based on income (compared to FPL).
- (Large) **employers** must offer full-time employees and their dependents affordable coverage that provides minimum value or risk payment of assessments.
- **Insurers** must provide specified coverage, may not discriminate among premiums, etc.



# LIMITATIONS ON AGE RATINGS

- Insurers spread premium costs over age groups.

## Pre-PPACA:

- State laws limit the amount of premiums older individuals pay compared to younger individuals.
- More than 40 states have age rating bands of 5:1 or more.

## Post-PPACA (effective January 1, 2014):

- Age rating bands are limited to 3:1.
- Concern of increased costs for young (“rate shock”).



# INDIVIDUAL EXCHANGES

Individuals can obtain private health insurance.

Only QHPs will be offered.

Depending upon income, individuals will receive federal subsidies or tax credits.

(Monthly) **Health Insurance Premium Tax Credit:**

- Household income of at least 100% but not more than 400% FPL (based on size of family);
- One or more of taxpayer, spouse or dependents enrolls in QHP under Exchange; and
- Is not eligible for minimum essential coverage (**Medicaid**, employer-sponsored plan, etc.).



# INDIVIDUAL EXCHANGES

**Effective October 1, 2013:** employers must provide notice to (current) employees about enrollment options through the Exchange.

New employees must receive notice of options at time of hire (within 14 days of start date).

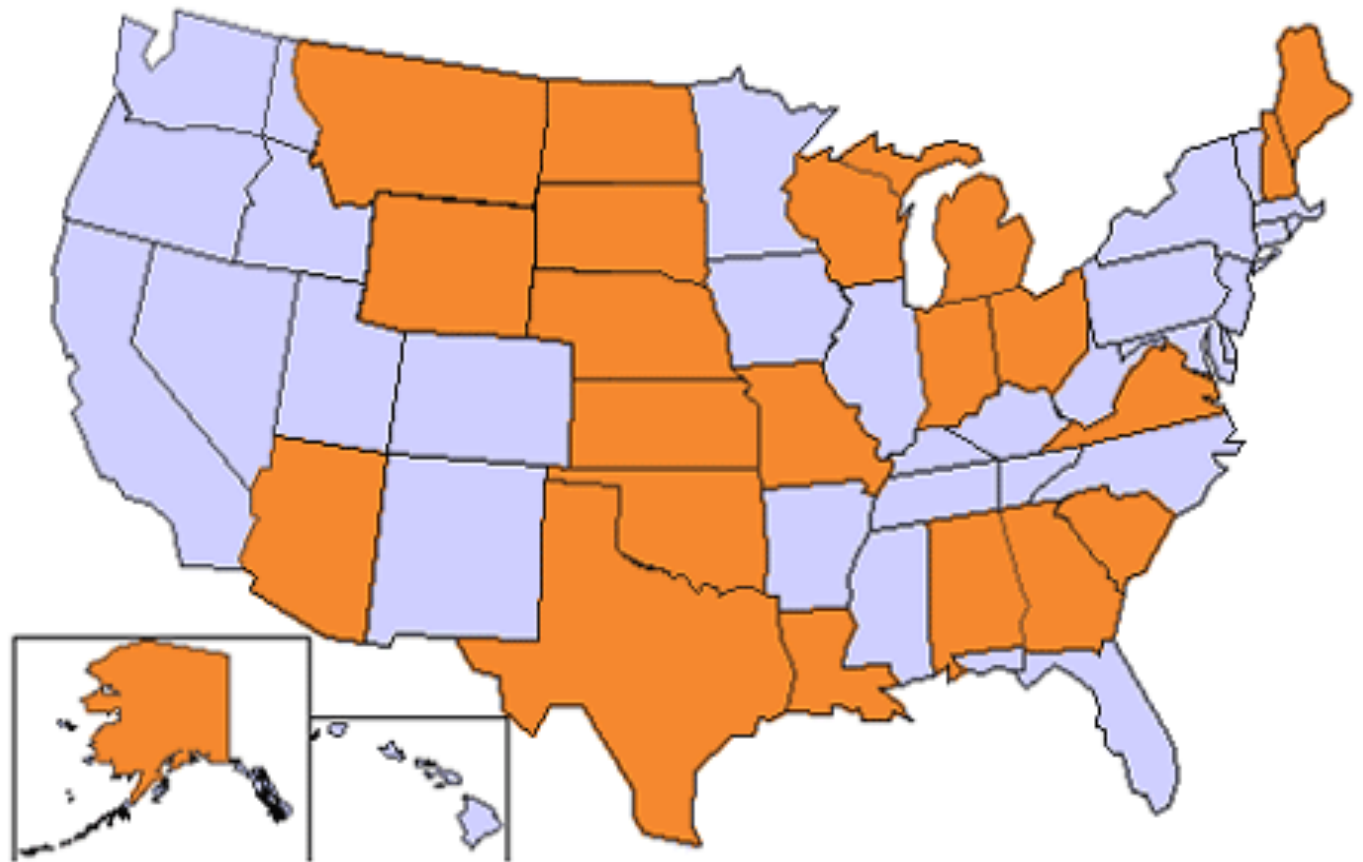
U.S. DOL has issued model notices:

1. For employers that offer a health plan.\*
2. For employers that do not offer a health plan.\*

U.S. DOL has issued COBRA Model Election Notice: informs qualified beneficiaries of coverage options available through exchanges.\*



As of Nov. 30th, 22 states will NOT be setting up ObamaCare Insurance Exchanges 



# MEDICAID AND MEDICAID EXPANSION IN OKLAHOMA

Current Medicaid eligibility in Oklahoma includes:

- Financial eligibility (family of 4 with monthly income less than or equal to \$6,996 or 185% or FPL)
- Children under 19 and pregnant women
- Individuals 65 and older
- Individuals who are blind or who have disabilities

PPACA will expand eligibility to those under 65 years of age with income below 133% of FPL. (Pays 100% 2014-2016, and 90% 2020 and subsequent years.)

SCOTUS ruling in *NFIB v. Sebelius* (2013) allowed states to opt out of expansion.

- Fallin rejected expansion (November 2012)
- Fallin rejected Individual Exchange or SHOP
- Both will exist in Oklahoma in 2014, but will be administered by the federal government.



# IMPACT OF OKLAHOMA'S FAILURE TO EXPAND MEDICAID

- Persons between the current Medicaid eligibility level and the FPL will not have access to subsidized coverage -- “coverage GAP.”
- Estimated that up to 18.7% of Oklahoma population, or 693,000, *would have qualified* for coverage under Medicaid expansion.
- **These individuals will now pursue other avenues (including the Exchange)...**





# EMPLOYER SHARED RESPONSIBILITY REQUIREMENT (AND PENALTIES)

## Pay or Play:

1. No coverage: an applicable large employer fails to offer minimum essential coverage to at least 95% (or 5, if greater) of its full-time employees and their dependents for a particular month, *and* at least one full-time employee enrolls in the Exchange, *and* that employee receives a premium tax credit or a cost-sharing reduction based on the employee's household income.

Penalty: 1/12th of \$2000 for all full-time employees in excess of 30, per month (including any full-time employees that are offered “minimum essential coverage”).



# EMPLOYER SHARED RESPONSIBILITY REQUIREMENT (AND PENALTIES)

## Pay or Play:

2. **Inadequate coverage:** an applicable large employer fails to offer affordable health insurance with minimum value to substantially all full-time employees and their dependents for a particular month, *and* at least one full-time employee enrolls in the Exchange, *and* that employee receives a premium tax credit or a cost-sharing reduction based on the employee's household income.

**Penalty:** 1/12th of \$3000 for all full-time employees that receive credit/reduction in the exchange, per month, up to:  
1/12th of \$2000 x NUMBER OF FULL-TIME EMPLOYEES MINUS 30.



# EMPLOYER SHARED RESPONSIBILITY REQUIREMENT (AND PENALTIES)

**Applicable Large Employer:** employs an average of at least 50 full-time “common law” employees (or the equivalent) during the preceding calendar year. (Aggregation rules apply.)

**Full-time employee:** an (hourly) employee with at least 30 hours of service per week during a calendar month. (Hours of service includes periods during which employee is entitled to payment even if no work is performed, *i.e.*, vacation, PTO, leaves, etc.)

**Full-time equivalents:** add up total number of hours of service during a month by all non-full-time employees (up to 120 hours), divide total hours of service by 120 and round to two decimal points



# EMPLOYER SHARED RESPONSIBILITY REQUIREMENT (AND PENALTIES)

**Affordability:** the employee's required contribution for self-only coverage does not exceed 9.5% of the employee's *household* income (utilize Form W-2 Box 1 wages).

**Minimum Value:** generally, the plan's share of the total allowed costs of benefits provided under the plan is less than 60% of those costs

**Recently delayed until 2015.**



# SMALL BUSINESS HEALTH OPTIONS PROGRAM (“SHOP”)

Oklahoma SHOP will be operated by the federal government (“FF-SHOP”).

Like Individual Exchanges, only QHPs will be offered.

- Transition Relief: only one option until 2015.

General Eligibility Criteria:

- **Small employer** - 100 or less **full-time employees** (states can opt to lower this threshold to 50 or less employees, but Oklahoma will not);
- Elects to offer (at a minimum) all **full-time employees** coverage in a QHP through a SHOP; *and*
- Minimum participation requirement: 70 percent of **full-time employees**.



# SMALL BUSINESS HEALTH OPTIONS PROGRAM (“SHOP”)

“Continuing eligibility” – employers remain qualified even if they cease to be small employers because of increase of number of employees.

Initial enrollment period October 1, 2013 - March 31, 2014.

Potential Tax Credit: In 2014, tax credit of up to 50% of premium contributions if:

- Fewer than 25 full-time equivalent employees
- Average annual wages below \$50,000
- Purchase coverage through SHOP
- Contribute 50% or more towards self-only premiums



# INSURE OK: PAST, PRESENT AND FUTURE

Mix of public (incl. Medicaid) and private (tobacco) funds.

Assists employers: monthly premiums split between employer (at least 25%), employee (no more than 15% for employee and 15% qualified spouse).

Eligibility:

- Operating location in OK (FEIN with OESC)
- No more than 99 employees (having low to moderate income) enrolled/enrolling in QHP

Currently provides funds for 35,000+ participants:

- Renewable
- Approx. 5,000 spaces left (as of August 1, 2013)

**Possible expansion...???** Federal government may not be interested in expansion...



# OKLAHOMA DEVELOPMENTS

Federal campaign started in June 2013 to encourage states to expand Medicaid.

Oklahoma Hospital Association, Oklahoma Policy Institute (Tulsa) supports Medicaid expansion.





# ESSENTIAL HEALTH BENEFITS

1. Ambulatory patient services
2. Emergency services
3. Hospitalization
4. Maternity and newborn care
5. Mental health and substance use disorder services, including behavioral health treatment
6. Prescription drugs
7. Rehabilitative services and devices
8. Laboratory services
9. Preventive and wellness and chronic disease management
10. Pediatric service, including oral and vision care

(Generally not applicable to self-funded or large groups.)



# “METALLIC” LEVELS OF COVERAGE

- Effective January 1, 2014, **unless exempt**, all levels of coverage must provide coverage for Essential Health Benefits.
- **Bronze** = insurance covers 60% all essential benefit care costs for average person; enrollee responsible for 40% of costs
- **Silver** = insurance covers 70% all health care costs for average person; enrollee responsible for 30% of costs
- **Gold** = insurance covers 80% all health care costs for average person; enrollee responsible for 20% of costs
- **Platinum** = insurance covers 90% all health care costs for average person; enrollee responsible for 10% of costs
- Employees must purchase a metallic level of coverage in the Exchange to qualify for a subsidy.



# FEES

## 1. Transitional Reinsurance Fee

- Payment to insurers covering high-risk individuals in Individual Exchange.
- 2014 = \$63 per covered life.
- Payable by insurers and sponsors of self-funded plans (providing major medical coverage).
- How will this work? Report enrollment counts by November 15, HHS notifies of fee liability by December 15, due 30 days.
- **Can insurers/sponsors pass this through to participants? Final rules do not address or clarify. Can likely pass through to participants as part of premiums (impacts “affordability”).**



# FEES

## 2. Risk Adjustment User Fee

- Pays administrative expenses of running risk adjustment program (estimates health care spending based on diagnostics and demographics).
- If a state does not implement its own program, HHS will operate a program on its behalf for a fee of \$.96 per year per enrollee.
  - Enrollees in Oklahoma will be subject to fee.
- Not applicable to fully-insured large employers (101+ employees) or self-insureds.
- **Can likely be passed through to participants.**



# FEES

## 3. Health Insurance (Excise) Tax

- Funds premium tax credits for individuals who purchase coverage through an Exchange.
- Paid by insurers based upon their plan's market share.
- Self-funded plans are exempt.
- **Can likely be passed through premiums to participants.**



# FEES

## 4. Patient Centered Outcome Research Institute Fee (“PCORI”)

- PCORI funds research in health care delivery and decisionmaking.
- \$1 per enrollee for plan years ending between October 1, 2013 and October 1, 2013.
- \$2 per enrollee for plan years ending between October 1, 2013 and October 1, 2014.
- Will continue through 2019.
- **Can likely pass through premiums to participants.**



# PROJECTED/ESTIMATED IMPACT OF THE PPACA

- ????
- General thought is that PPACA will result in increased insurance premiums...



# WHAT YOU SHOULD BE DOING NOW

## **Stay abreast of legal developments:**

- Work with an attorney
- @HealthCareGov
- [www.HealthCare.gov](http://www.HealthCare.gov)
- Subscribe to our *Employer's Legal Resource* newsletter\*

## **Crunch the numbers:**

- **Work with your broker**







## QUESTIONS?

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