



This Employer Webinar Series program is presented by  
the National Association of Health Underwriters  
in conjunction with United Benefit Advisors



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# Introduction

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# **The Politics and Impact of PPACA on Employers**

**By Janet Trautwein**

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# The New Political Dynamics

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- Changes to Congress
  - Factors to Consider:
    - Desire to repeal rather than fix
    - Need to off-set repeal changes with other spending cuts
- Election Results—Changes to States
  - New Governors will have a tremendous impact on PPACA implementation
  - Impact of Tea Party
  - Desire to wait on Supreme Court
  - Decision to do nothing

# The Immediate Impact

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- Dependents to Age 26
- Restrictions on Lifetime and Annual Limits
- Medical Loss Ratios
- Grandfathered plan issues
- Pre-existing conditions limitations for children
- Restrictions on OTC medications

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# **Health Reform Requirements in 2014**

# PPACA in 2014 – Individual Mandate

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- Requires all American citizens and legal residents to purchase qualified health insurance coverage.
- Legal challenges to the constitutionality of this requirement will take this case to the Supreme Court.
- In 2014, those without insurance will pay the greater of **\$95** or 1% off household income that exceeds personal exemption for that year.
- Starting in 2016, the penalties rise, to the greater of **\$695** or 2.5% of income. These penalties apply to EACH family member without coverage.

# PPACA in 2014 – Individual Mandate

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- Exemptions to individual mandate for:
  - financial hardship
  - religious objections (see for reference IRC Sec. 1402 (g)(1))
  - American Indians
  - those without coverage for less than three months
  - undocumented immigrants, incarcerated individuals
  - those for whom the lowest cost plan option exceeds 8% of an individual's income, and those with incomes below the tax filing threshold

# PPACA in 2014

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- Coverage must be offered on a guarantee issue basis in all markets and be guarantee renewable.
- Exclusions based on preexisting conditions would be prohibited in all markets.
- Redefines small group coverage as 1-100 employees.
- Rate differential for all groups in this category severely restricted.

# PPACA in 2014

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- Creates sliding-scale tax credits for non-Medicaid eligible individuals with incomes up to 400% of FPL to buy coverage through the exchange
- The requirement that the subsidies are only available through the exchange is significant
- It is a particular threat to employer plans due to other provisions that allow employees to opt out of employer sponsored coverage

# Essential Benefits Defined in 2014

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Section 1302(b) defines essential health benefits to include:

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and Substance use disorder services
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Preventive and wellness services and chronic disease management
- Pediatric services, including oral and vision care

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# Health Insurance Exchanges

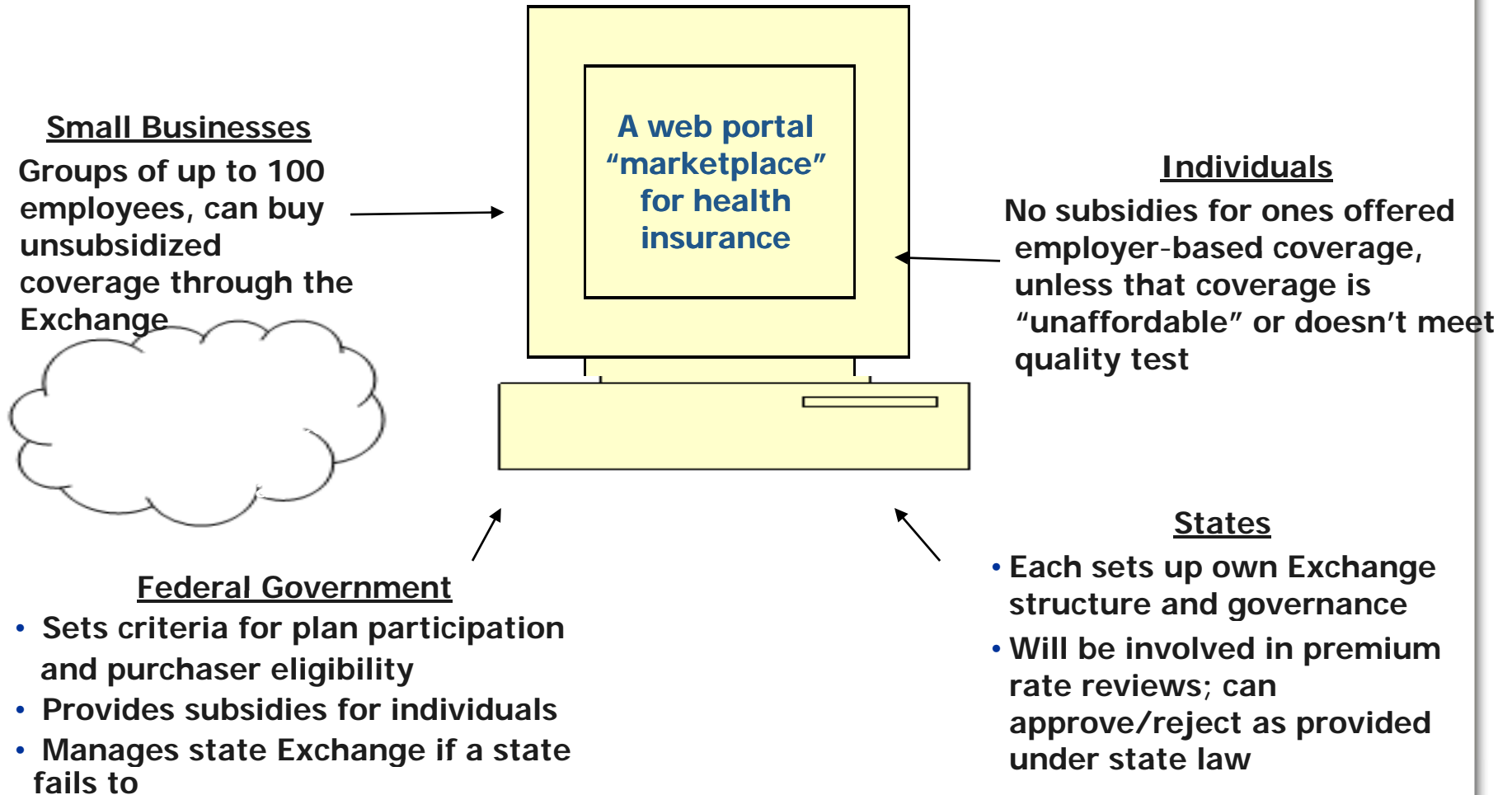


# Health Insurance Exchanges

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- The establishment of health insurance exchanges is one of the most significant and far-reaching aspects of the private health insurance reforms contained in the federal Patient Protection and Affordable Care Act (PPACA).
- Decisions state and federal policymakers will be making over the next few years regarding design will be critical.

# Exchanges - 2014



# Exchanges—Who Has Access

Purchaser	Types of Coverage		
	Individual Coverage	Group Coverage	Income-Eligible Subsidized Coverage
Individuals without access to employer coverage (U.S citizens and legal residents only)	X		X
Individuals whose employer coverage doesn't meet the affordability or quality tests	X		X
Individuals previously covered by the Pre-existing Condition Insurance Plan	X		X
Small employers and their employees		X	
Congress and Congressional Staff		X	
Individuals with employer-sponsored coverage who qualify for an employee free-choice voucher	X		

# Groups With No Access & the Potentially Uninsured

Purchaser	No Exchange Access	Potentially Uninsured
Any size employer who wants to maintain a grandfathered plan	X	
Employer with more than 100 employees (by 2017 states could allow)	X	
Any size employer who wants to offer a self-funded product	X	
People of all income levels who have qualified group coverage that meets the affordability and quality tests		X
People eligible for Medicaid/S-CHIP but not enrolled	X	
People who choose to ignore the individual mandate/pay penalty		X
Individuals who are not U.S. Citizens or Legal Residents	X	X

## **Exchanges – Inside and Outside Markets**

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- Congress specifically provided that individual and group health insurance markets are to exist outside of the exchanges.
- The law specifies that “grandfathered” plans will continue to exist outside the exchange.
- Other plans are also permitted to exist outside of the exchange, and from experience in Massachusetts and Utah, some individuals and businesses will continue to purchase coverage there.

# Employers and Exchanges

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- Making sure exchanges provide a benefit for employers and do not in any way undermine the ability or willingness of employers to provide, is a top priority.
- Current exchange models in Utah and Massachusetts provide coverage options to the small-employer market but have struggled with enrollment.
- Although PPACA allows the state the option of expanding the exchange to serve as a potential coverage option for larger groups beginning January 1, 2017, this could result in unintended consequences.
  - The large employers that would be attracted to the exchange would be those with an older and sicker employee population that would benefit from the exchange's modified community rating structure.
  - This would increase the cost of coverage for other participants.

# Questions Employers Are Asking

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- Will the exchanges really save us money ?
- How will tax credits /subsidies or vouchers be administered and tracked back to employers?
- What is considered in determining “household” or family income to determine if coverage is “unaffordable” ?
- Exchanges are a somewhat new idea – and we are hearing problems with the Massachusetts exchange – what if they fail?
- Can we as a country afford all these new subsidies?

# Employer Responsibilities

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**“Enid was finally ready to admit that compliance was a bit more complicated than she first thought.”**

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# Employer Responsibilities

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- Employer must count all full-time employees and part-time employees – on a full-time equivalent basis
  - in determining if they have 50 or more employees
    - Certain seasonal workers are not counted in determining if an employer has 50 workers
    - Full-time = 30 or more hours per week, determined on a monthly basis
      - **The definition of full-time employee is a major topic of discussion on Capitol Hill**
- Penalties assessed for “no coverage” or coverage that is not “affordable”

# No Coverage

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- If an employer fails to provide its *full-time* employees (and their dependents) the *opportunity to enroll* in “minimum essential coverage,” **and**
- One or more *full-time* employees enrolls for coverage in an exchange and qualifies for a premium tax credit or cost-sharing reduction, **then**
- Employer penalty = \$2,000 for each of its *full-time* employees in the workforce

# Unaffordable Coverage

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- If employer offers its *full-time* employees (and their dependents) the *opportunity to enroll* in minimum essential coverage, **and**
- One or more *full-time* employees enrolls for coverage in an exchange and qualifies for a premium tax credit or cost sharing reduction because
  - The employee's share of the premium exceed 9.5% of income, or
  - The actuarial value of the coverage was less than 60%, **then**
- Employer penalty = \$3,000 for each full-time employee who receives a tax credit or cost-sharing reduction

# Will the Employer Pay A Penalty? *beginning in 2014*

**Are you a large employer?**

- at least 50 full-time equivalent workers
- including full-time [30+hours per week] and part-time workers [prorated]
- excluding seasonal workers [up to 120 days per year]

**yes**

**no**

**Are any of your full-time employees in an exchange plan and receiving a premium credit?**

**yes**

**no**

**Do you have more than 30 full-time employees?**

**yes**

**no**

**Do you provide health insurance?**

**yes**

**no**

**No penalty**

**Pay Monthly Penalty, lesser of:**

$1/12 \times \$2,000 \times$   
(Number of full-time employees - 30)

**or**

$1/12 \times \$3,000 \times$   
(Number of full-time employees who receive credits for exchange coverage)

**Pay Monthly Penalty**

$1/12 \times \$2,000 \times$   
(Number of full-time employees - 30)

# Some Good News!

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- The provision on free-choice vouchers was removed in the budget act agreement agreed to last week
- The requirement that businesses issue 1099's for vendor payments exceeding \$600 has been repealed.

# Other Responsibilities

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- Employers must automatically enroll “new *full-time* employees” in employer-sponsored coverage
  - Must provide adequate notice and opportunity to opt out
  - Applies to employers with “more than 200 full-time employees”
- Notice to current employees and new hires about exchange and subsidies
  - Existence of exchange, services and how to obtain assistance
  - Availability of subsidies if employer coverage is unaffordable or below minimum benefit level.

# More Employer Responsibilities

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- New rules are out relative to the reporting on W-2s the value of employer provided health insurance
- A new four-page summary of benefits must be provided to employees beginning in 2012
- Completion of form 5500 will become more complex
- New requirements on claims and appeals will be in place

# More Employer Responsibilities

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- Tracking and notification of number of months employees covered by minimum required coverage.
- A variety of new reporting requirements for self-funded plans must be provided to the government and employees.

# Many Issues Still Undecided

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- 105(h) non-discrimination rules have been delayed
- Continuing waivers on mini-med plans
- 4 page summary requirements on self-funded plans
- Effect of Accountable Care Organizations
- Specific process of auto-enrollment
- Viability of Class Act

# Employer Decisions

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- Whether or if it is possible to maintain a grandfathered plan.
- How to budget for increased plan costs.
- What will the new compliance costs be?
- Can I afford to continue to offer coverage to employees?
- What are the implications if I drop coverage for employees?
- What is my communication strategy?



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