

ACA Implementation Update: Preparing for 2015

Where are we now?

2014 Open Enrollment Ended March 31.

Consumers cannot purchase individual coverage unless there is a Special Enrollment Period:

- Involuntary loss of Minimum Essential Coverage
- Newly eligible for tax credits
- Life events: marriage, child, change in citizenship status, permanent move
- Error or inaction by the Exchange
- Misconduct by someone providing enrollment assistance
- Exceptional circumstances
- Special rule for American Indians and Alaska Natives

Big Questions

Big Questions Still Exist About the Impact of ACA:

- How many Exchange enrollees have paid premiums, and will continue doing so?
- What percent of enrollees had a pre-existing condition or are having a baby?
- Who will enter the market during the year through special enrollment periods?
- What are the numbers in each state? For each carrier?
- And the biggest question...

What About Premiums?

Rates are likely to increase in every state (they always do), the question is how much

The answer will depend on many factors:

- Demographics of the new risk pool
- Impact of grandfathered and transition plans on the pools
- Application of new market rules on plans as they renew in 2014
- Increasing federal premium taxes – Changes in reinsurance
- Increasing administrative costs (especially in SHOP)
- Enrollment and payment issues with the exchanges
- Effectiveness of the risk-sharing programs

Most of this will be unknown when 2015 rates are filed

What's Coming Up This Year?

- QHP submission dates
- New QHP Requirements
- Federal Oversight/Enforcement
- New Functionality in SHOP Exchanges
- Mandate Changes
- Court Cases – Elections

QHP Submission Timeline

For Partnership States:

First QHP Submission = August 8

Final QHP Submission = September 4

Agreements Signed = November 3

State-Based Exchanges Set Own Timelines

Open Enrollment: November 15 – February 15

New QHP Requirements in 2015

- **Network Adequacy**

2014	2015
<ul style="list-style-type: none">• State review -OR-<ul style="list-style-type: none">• Accreditation -OR-<ul style="list-style-type: none">• Access plan	<p>CMS reviews provider list submitted by issuer using a “reasonable access” standard.</p> <p><u>Experience from 2015 reviews will inform future rulemaking.</u></p>

- **Essential Community Providers**

2014	2015
<ul style="list-style-type: none">• QHPs cover 20% of ECPs or provide justification of adequacy• Minimum expectation of 10% of ECPs	<ul style="list-style-type: none">• QHPs cover 30% of ECPs (or provide justification of adequacy)• No minimum expectation standard

Federal Enforcement Actions

- **Currently performing MLR audits**
- **Will do market conduct audits in 5 states; others, if necessary**
- **Penalties**
 - The maximum amount of penalty imposed under this paragraph is \$100 for each day for each individual with respect to which such a failure occurs
 - No penalties if “reasonable diligence” found
 - Administrative review
 - Judicial review
- **Will do network adequacy outlier test and compliance review of plans in FFM states**
- **May deny Exchange participation**
- **Federal government may not prohibit the sale of a policy or use of a rate in a state**

SHOP Exchange Changes

New Functionality in Small Group Exchange:

- Will Have an Operating Website This Year
- “Employee Choice” Will Be Added Option
 - Employer chooses level; each employee chooses own plan
 - Each employee rated based on age, tobacco use, family composition, plan choice
 - Exchange collects premiums and disburses to carriers
 - **20 States Chose to Delay “Employee Choice” for one year**

Mandate Changes

Employer Mandate:

Employee Coverage Requirements			
	2014	2015	2016
< 50 employees	None	None	None
50-100 employees	None	None	95%
> 100 employees	None	70%	95%

Individual Mandate:

- Individual Mandate Penalty Increases to \$325/adult or 2% of Household Income, whichever is higher
- Was \$95/adult or 1% of Household Income, whichever is higher

Court Cases - Elections

Outstanding Court Cases:

- Are Consumers in FFM States Eligible for Federal Subsidies?
- Did the ACA follow proper order as tax legislation?

2014 Elections:

- Who will have majority in Senate?
- What can be done in 2015?

What About 2016 and Beyond?

- **Need Essential Health Benefits Benchmark for 2016 and Beyond** (no regulation currently in place)
- **Small Group Definition Changes to 1-100 in 2016**
- **Reinsurance and Risk Corridor Programs End in 2017**
- **State Innovation Waivers Begin in 2017**
- **Quality Data Must Be Posted in 2016**
- **Enrollee Survey Results in 2017**
- **“Cadillac Tax” Begins after December 31, 2017**
- **Must Address Insurance and Health Care Costs**

Other Key Issues

- Data Matching – immigrant status and income
- Definition of “Fixed Indemnity” Plans – Must be supplemental (how will this be enforced?)
- Risk Corridors – Will funding be available?
- Risk Adjustment – How much money will change hands? What impact will it have?
- Renewals – Who will renew for 2015?
- Penalties/Reconciliation – What will happen next April?
- Health Savings Accounts – Can they continue?
- Mental Health Parity – Effective July 1, 2014 for group market
- Duplication of Oversight – Are there two regulators? Will feds defer to states and their processes? What cost to carriers?
- **Navigator Litigation and Regulation**

Navigators

- **Missouri Navigator Lawsuit**
 - Federal district court judge issued an injunction preventing the implementation of Missouri's Navigator licensing statute.
 - Broad preemption reasoning in the decision could touch other state laws if adopted by other courts.
- **Final Market Standards regulation prohibits states from:**
 - Requiring Navigators to refer consumers to an individual who is not impartial (read: agent/broker);
 - Preventing Navigators from discussing the terms of coverage of any particular policy or plan, or from providing advice regarding substantive benefits or comparative benefits of different plans; or
 - Requiring that a Navigator hold an agent or broker license or carry errors or omission insurance.
- **2015 Navigator funding applications being submitted now**
 - Will states receive full list of Navigators (all workers) to ensure compliance with state requirements?

Questions?

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