PPACA Update Summer 2015

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Summer 2015

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How Does PPACA Add Coverage? Louisiana totals 4.6m people

Employer Based
~2.1m

Government
~1.8m

Individual
~~<.2m~~
350k

Part 2: Medicaid Expansion
Still Waiting!

Part 1: Healthcare.Gov!

After 2 Open Enrollments, PPACA has added roughly 150,000 new insured. That's more than live in Lafayette, and roughly 3 Monroe's of people!

Louisiana Medicaid Today: 1.3 million Enrolled

- Children in modest-low income households
- Blind
- Disabled (Receive SSI)
- Low income Seniors
- Low income pregnant women WHILE they are pregnant
- Foster children to 26
- Uninsured with breast or cervical cancer

NO CATEGORY FOR NORMAL HEALTHY LOW INCOME ADULTS!!!

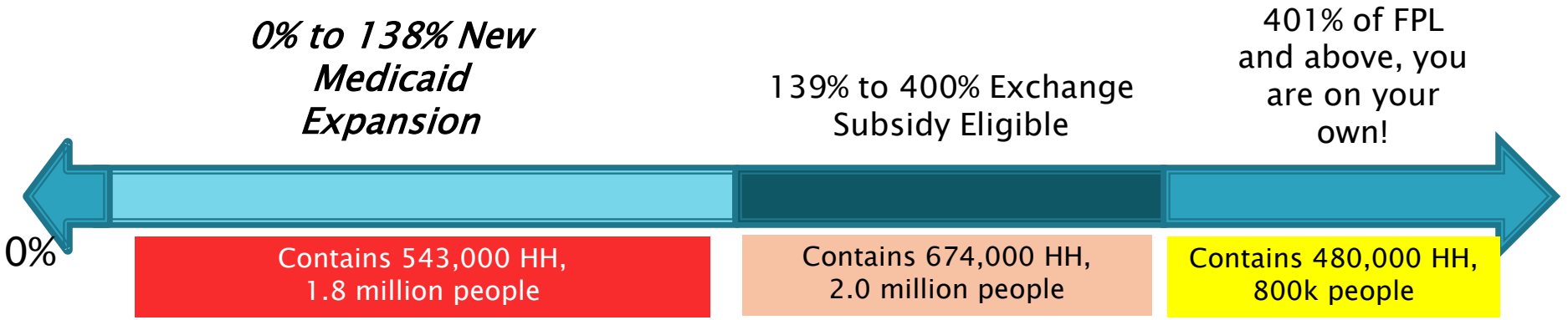
BAYOUHEALTH
Your Health | Your Choice

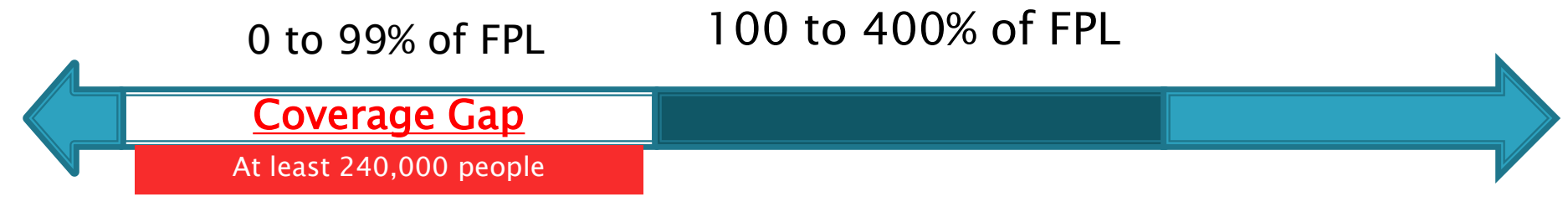
LaCHIP
Louisiana Children's Health Insurance Program
Toll Free # 1-877-2LaCHIP (252-2447)
www.lachip.org

LaMOMS
No-Cost Health Insurance for Pregnant Women

The "No Coverage" Zone

PLANNED EXPANSION (PPACA)



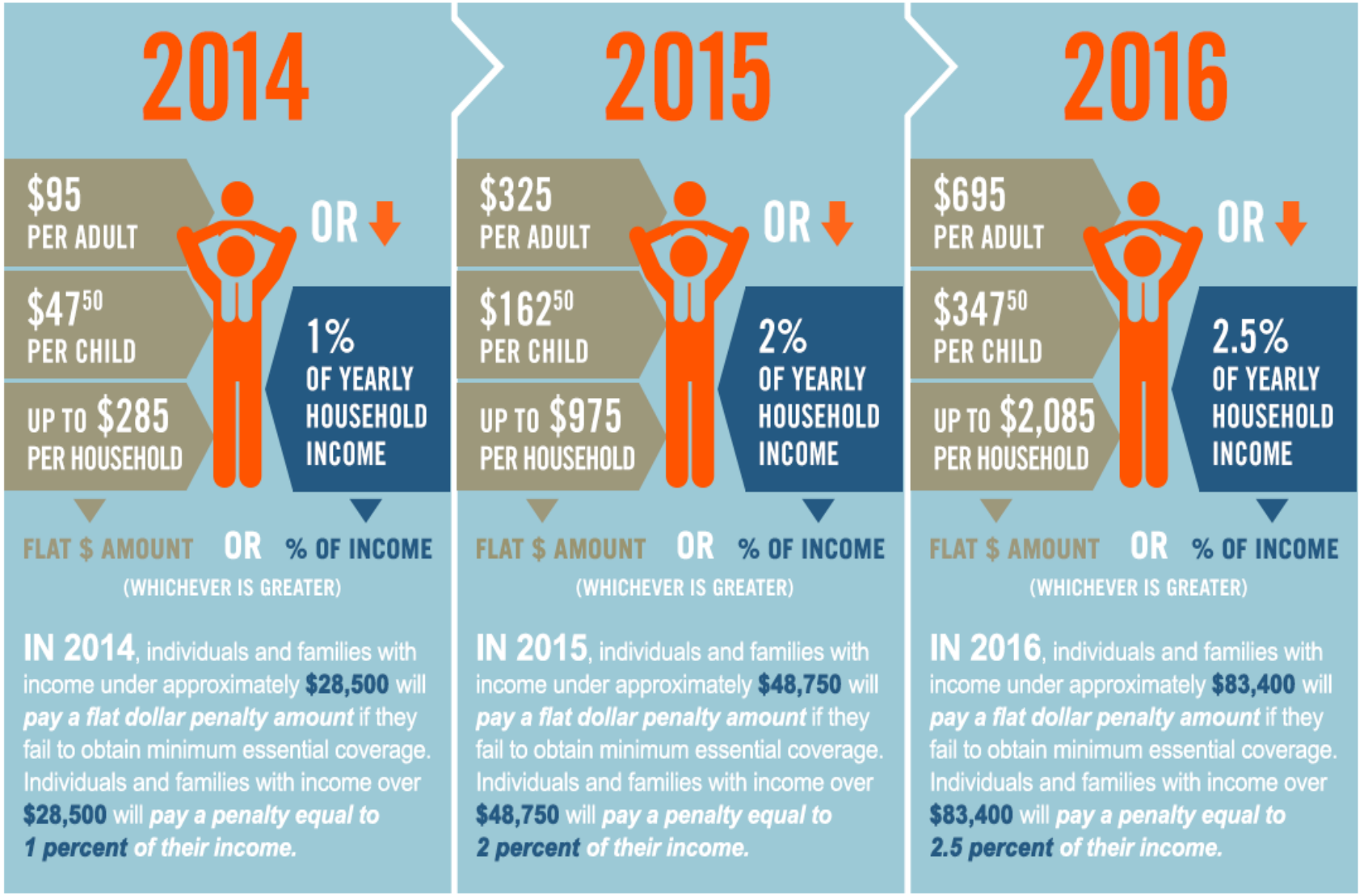


In 2014, 100% of FPL is $11,670 for a single person, $19,790 for a family of 3.

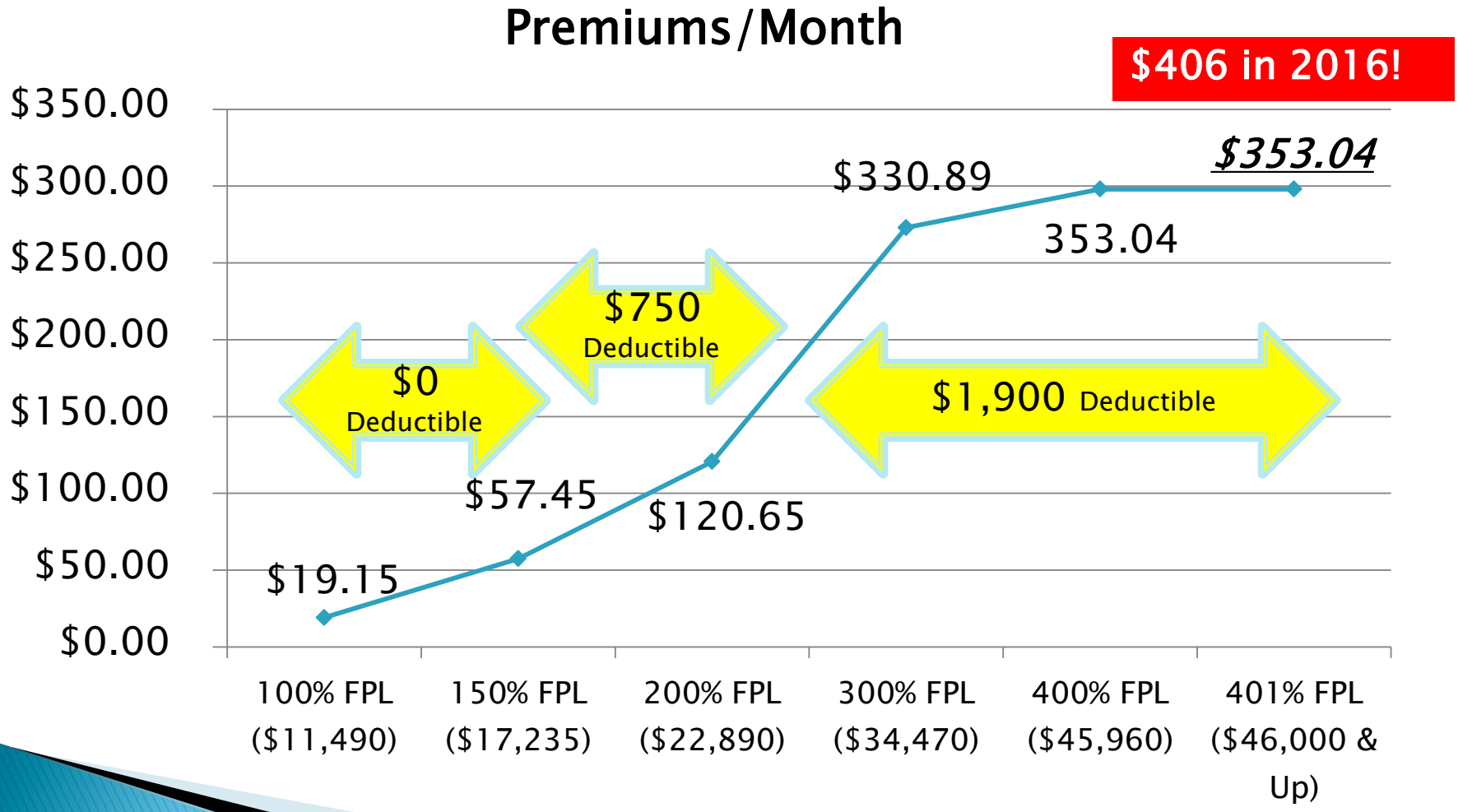
"SPECIAL" ENROLLMENT TRIGGERS
WHEN WWW.HEALTHCARE.GOV IS CLOSED

TRIGGERING EVENT	EFFECTIVE DATE OF COVERAGE	TIMEFRAME
Loss of Coverage (Date of eligibility loss)	If loss is in past, 1st of the month following enrollment. If loss is in future, 1st of the month following loss of coverage.	60 days before and 60 days after loss of coverage (120 day window).
Marriage/Divorce (become or gain a dependent) Denial of Medicaid/CHIP	1st of the month following plan selection	60 days after the event.
Birth, Adoption, Foster Care (become or gain a dependent)	Date of Birth, adoption, placement for adoption or placement in foster care	60 days after the event.
Gaining lawfully present status Changes in APTC eligibility Changes in CSR eligibility Changing state of residence Incarceration release Native American options	1st to 15th enrollment, 1st of month effective 16th to 31st of month, 1st of month following	60 days after the event
Exchange Errors Contract Violations Exceptional circumstances	1st to 15th enrollment, 1st of month effective 16th to 31st of month, 1st of month following; or date of event	HHS Determined Case-By-Case

FINES ARE GROWING!!!!



Subsidized Premiums and Deductibles
Silver Plan Saver $1,900
30 Yr Old Male or Female



Assumes purchase of Benchmark Silver Plan (2nd Cheapest Silver Plan for that customer)

Does PPACA Suffer from "Bertaut's Law"?

- "No matter how extensive your research, nor how meticulous your modeling,
- ***EVERYTHING costs more than you think it will!"***

Michael Bertaut, in Washington DC Lobbyist meeting on PPACA CBO Estimates 12/15/2009

PPACA Cost Impact on BCBSLA

84% of Premiums Went to Medical in 2014

In 2014, BCBSLA collected $2.83B in risk premiums, broken out like this:

6% Salaries/Admin

5% Commissions

4% Taxes/Fees

1% Reserves

$1.05B; 37%

$651M; 23%

$679M; 24%

$453M; 16%

Taxes and Fees were $113m in 2014, up from $66m in 2013!

2013 Results Based on $2.66B Premiums

36% Hospital $958M

28% Physician / Clinical Services $745M

21% Prescription Drugs $559M

15% Total Overhead $399M

6% Salaries/Admin
4% Commissions
3% Reserves
2% Taxes/Fees

BCBSLA Audited Financial Results FY 2013-2014

Costs Driven by New Taxes and Fees as well….

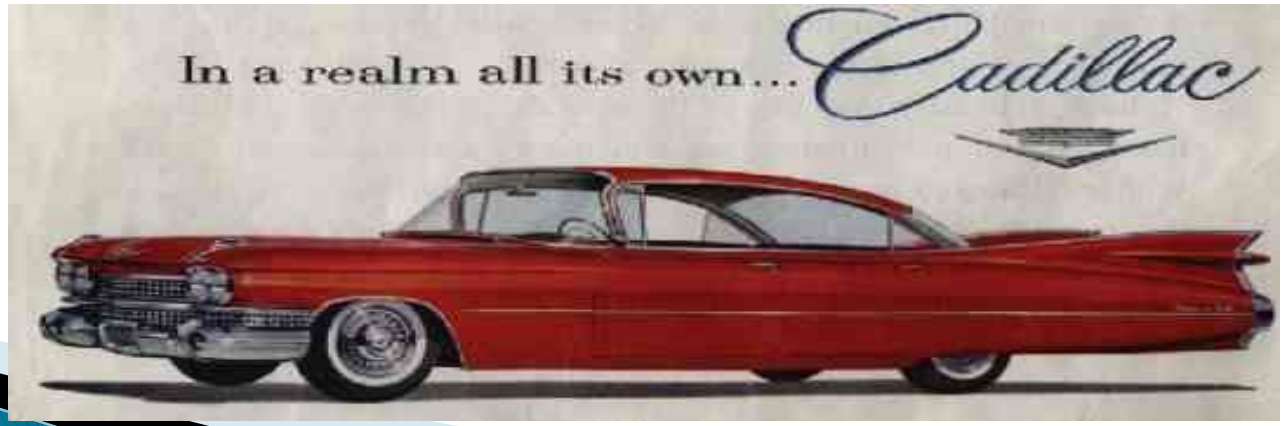
Total $283.1B!!

Item	Impacts	10 Year Cost
Health Insurer Tax	All Fully Insured Customers, Group and Individual	$101.2B
Medical Device Tax	All Medical Devices, upon Sale or Delivery	$30.2B
Group Reinsurance Fee	All group insurance	$25.8B (3 Years)
Exchange Assessment	All insurance in market served by an Exchange (3.5%)	$32.2B
PCORI Fee	All insured	$11.4B
"Cadillac" Tax	All health plans above a state value threshold	$82.3B (5 Years)

Cadillac Tax Looming

- Designed to put a “hard stop” on the value of health insurance.
- Every dollar of value over $10,200 for an individual plan and $27,500 for a group plan is taxed at 40%!
- Plans offered in 2018 will be taxed. Assessments should be done well in advance (early 2017).
- Taxable base **might** include premiums (or COBRA valuation), HSA contributions, HRA, FSA, Wellness programs, EAP’s, dental, or even vision.
- Any measurable value (except the tax) added to health insurance from employee AND employer could counts

See IRS Notice 2015-16 on Section 4980i



Hepatitis C Facts

- Can lead to chronic liver damage and failure, increases chances of clogged arteries
- Almost 3 million people are infected in U.S.
- **Recent research shows 1 in 10 people showing up at Urban ER's are infected**
  - **75% of those people were unaware!**
- 15-25% infected will get well on their own
- 95% of those infected can be CURED by a drug that costs **$1,000/day for 84 days.**
- Most common from dirty needles/sharing
- 1-5% will eventually die.

Drug Company MAGIC!!

Or Why Nobody Can afford an Open Formulary

$37.26

$11.25

$1,492!!!

$53.15

$34.20

$1,492!!!

All prices based on exact substitutions in milligrams for a 30 day supply priced on www.cvs.com on 11-May 2015

PPACA drives UP the SYSTEMIC COSTS of Healthcare, (even if some folks get a "personal" break.)

- As a carrier, how are we to help our clients and members control healthcare costs in this New Free-Spending Environment?
- A variety of strategies have emerged like higher deductibles, narrower networks, and tighter formularies, but
- **None of these solutions make patients healthier!**

Can I improve their health AND save money?

We MUST Track and Improve Chronic Cases. Cost of Failure?

- Average pre-diabetic moves to diabetic?
- **+$6,667 per year in claims. Average.**
- Average Hypertensive has a stroke?
- **+$15,000 in first 90 days after stroke.**
- Average High Cholesterol Patient has a heart event?
- **+$21,500 in first 5 DAYS!**
- Chronic Kidney Disease?
- **$23,500 yearly average, Stage 4-5 can hit $100,000/year on Dialysis.**

ADA Diabetes Care: *Change in Medical Spending Attributable to Diabetes: National Data From 1987 to 2011*
http://www.uhnj.org/stroke/stats.htm
http://www.hcup-us.ahrq.gov/reports/projections/2012-02.pdf
http://www.usrds.org/2012/pdf/v1_ch7_12.pdf

The New Way: *Quality Blue PC*

- The "PC" = **Primary Care**. Started 1/1/14.
- Team-Based Healthcare, i.e. tight, high touch partnerships between the patient, PCP's, BCBSLA, and Employer Groups.
- PCP's are paid extra to watch over members with chronic conditions, with BCBSLA assistance, to make sure members don't become **ACUTE CASES**!
- Payments increase as patient improves!
- BCBSLA Invests up front in participating PCP's
  - Software, technical/clinical support provided
  - Care Management Fees (CMF's) add to PCP revenue
  - Employers can see how many members are enrolled and progress over time.

Physicians also receive Continuing Education Credits while Participating in QBPC!

After 1 Year..

$15 CO-PAYS Reductions!!! FOR PCP VISITS STARTING JANUARY 2015!

- 12% improvement in diabetes quality measures
- 28% in Hypertension, 32% in Cardio-vascular Disease, AND……
- 69% improvement in CKD measures!!!
- **Trend for Members with Chronic Conditions is DOWN 6.7% for this population ($50 PMPM lower)!**

- 46 clinics with 647 PCP's enrolled in Program just in La.
- Managing 186,000 BCBSLA members…
- 67,000 of which have one or more chronic conditions!
- BCBSLA invested $4.0m in care management fees for this population in 2014. Already over this number for 2015

How To Avoid Business Landmines Under PPACA

Section 4980h
Treasury 2014-03082
Sections 6055-6056
Summer 2015

Make Sure You Can Answer These Questions Accurately, Monthly, Forever!

- Question 1:

How Do I Count My Employees?

Section 26 USC 4980h Compliance;
The “employer mandate”

Counting Part 1: The Medical Loss Ratio Surveys

- Issued by carrier annually to all Fully Insured Groups.
- Count is previous 12 month average of all W-2's issued, including **ALL Full Time, Part Time, Seasonal, and Ownership in the count.**
- Each human counts as "1"
- Used for determination of membership in the Single Risk Pool. Underwriting Rules.
- 2-100 means you get a Qualified Health Plan, Age Rating, and Member Level Premiums.
- Can be updated upon group request.

Counting Part 2: ALE-Count-4980h How Many Average FTE's Do I have?

Month	Full Time (30 hour)	Part Time Hours	/120 FTE	Total FTE	AVERAGE
JAN 2014	22	3300	27.50	49.50	
FEB 2014	23	2800	23.33	46.33	
MAR 2014	23	3250	27.08	50.08	
APR 2014	23	3450	28.75	51.75	
MAY 2014	24	3105	25.88	49.88	
JUNE 2014	22	3271	27.26	49.26	
JULY 2014	23	3655	30.46	53.46	
AUG 2014	24	3705	30.88	54.88	
SEPT 2014	25	3000	25.00	50.00	
OCT 2014	26	3800	31.67	57.67	
NOV 2014	27	3950	32.92	59.92	
				65.42	***53.18***

Notice must be accurate to the hundredth of a FTE.

A bona fide count is AT LEAST six rolling months out of twelve.
SNAPSHOTS are not valid measures of size

Controlled , Affiliated and Associated Groups Must be COMBINED for this computation!!!

- The 2 Counts have nothing to do with each other, and will almost never agree.
- Carrier is aware of MLR counts, but NOT aware of ALE counts.
- ALE counts are between group and IRS/CMS/DOL.
- MLR counts are between group, broker, carrier.

Who is benefit eligible (Full Time) and When? (IRS Bulletins 2012-58/59, PHSA 2708)

- **Any employee** who averaged 30 *hours of service* per week or 130 hours per month or 1,560/year.
- **No eligible employee may be required to wait more than 90 days until coverage becomes effective (except for a possible 30 day orientation period.)**
- Volunteer emergency first responders are not covered
- Teachers are full time, even if they don't work 3 months/year.

DOL Focus on "misclassification"

- *"The misclassification of employees as **independent contractors** presents one of the most serious problems facing affected workers, employers and the entire economy."* (http://www.dol.gov/whd/workers/misclassification/)

- New Economic Realities Test:
  - Is the work an integral part of the employer's business?
  - Does the worker's managerial skill affect the worker's opportunity for profit or loss?
  - How does the worker's relative investment compare to the employer's investment?
  - Does the work performed require special skill and initiative?
  - Is the relationship between the worker and the employer permanent or indefinite?
  - What is the nature and degree of the employer's control?

    - **No ONE FACTOR is determinative of status.**

Make Sure You Can Answer These Questions Accurately, Monthly, Forever!

- Question 2:

What Does The ALE Count mean?

Section 26 USC 4980h Compliance;
The “employer mandate”

If the Answer is 0 to 49.99 FTE's….

- No obligations to provide affordable coverage
- No obligations to provide valuable coverage
- No federal obligations to offer coverage…state law applies
- No danger of fines under 4980H
- ***You must still be able to demonstrate your Non-ALE status. YOU MUST STILL COUNT!!!***

DANCE!!!

While we are Talking about Small Groups: Individual Coverage…

- IRS Bulletins 2015-17 and 2013-54 state **that companies cannot buy their employees INDIVIDUAL COVERAGE with Corporate Funds, nor allow the Employees to pay for that coverage with PRE-TAX $'s.**
- Price of Failure? Beginning on 7/1/15, $100 per employee per day in violation.
- Premiums can only be deducted for employee post-tax, no corporate tax break.

There are some exceptions for 1-Person S-Corporations—See 2015-17

If you are currently Reimbursing Individual Coverage from Company Funds:

Price of Failure?
$100 Per Employee Per **DAY!!**

- You have 3 options:
  - 1. Switch to Group Coverage
  - 2. If you are sub-ALE in size, discontinue coverage completely
  - 3. Deduct employee payments AFTER ALL TAXES from their paycheck, and make no reference at all to it in the corporate taxes. A non-specific pay increase is, of course, always legal.

If the Answer is 50 to 99.99 FTE's

- You **may** qualify for TRANSITIONAL RELIEF until **1/1/2016 (or your 2016 non-calendar year renewal date)**; IF and ONLY IF you can attest to **all 3 items on the following checklist:**
  - 1. You didn't get below 100.00 by reducing your workforce (except for bona fide business reasons); AND
  - 2. You keep in place any coverage offered on 2/9/2014; AND
  - 3. You pay at least 95% of the premium contribution you were paying on 2/9/2014 until

RELIEF IS NOT AUTOMATIC!!!!
You must hit all 3 items above to qualify.

If the Answer is 100+ FTE's

- Your "assumed" compliance date was 1/1/15
- To avoid ALL fines, you must offer affordable, 60% AV coverage to 70% of full timers in 2015 and 95% in 2016.
- Section a) fine is avoided by offering minimum essential coverage.
- Section b) fine is avoided by offering affordable and valuable coverage

See Next Slide if you have a non-calendar year renewal date….

Transitional Relief for Non-Calendar Year Plans

- Employers with non-calendar year plans may wait until the renewal date to comply in 2015, IF:
  - **Renewal date** was not modified after 12/27/2012; AND
  - **As of February 9, 2014**, in the preceding 12 months at least 25% of all employees are covered; or
  - 33% of all full time employees (30 hr/wk) are covered; or
  - 33% of all employees are offered coverage at last open enrollment; or
  - 50% of all full time employees (30 hr/wk) are offered coverage at last open enrollment.
  - If you do not comply by renewal date, fines apply retroactively to 1/1/15.

Who is a dependant under 4980H?

- Your legally adopted or birth-children until the last day of the month in which they turn 26 years old.
- Your non-US Citizen children who are a citizen of Mexico or Canada.
- Excludes foster children.
- Excludes Step children.

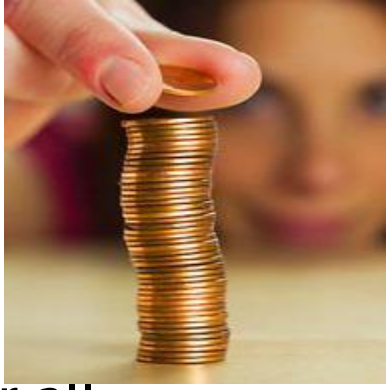
Who is an employee under 4980H (that is, who must be offered coverage?)

Note that **H-2A** and **H-2B** workers are **employees** under this standard unless they are seasonal.

- Any common law employee except:
  - Leased Employees (Section 414(n)(2))
  - Sole Proprietor
  - Partner in a Partnership
  - 2% S-Corporation Shareholder
  - Section 3508 Worker (real estate agents, certain other direct sales relationships)

What Does "Affordable" Mean?

Final Safe Harbors



- Federal Poverty Line:
  - Use 100% of FPL x 9.5% = affordable premium for all employees. Use FPL number up to 6 months in advance.
  - **In 2014, would be $11,670 x 9.5% = $1,108.65 ($92.38/mo)**
- Rate of Pay:
  - Use hourly rate times 130/month to determine wages x 9.5% to compare to premium, or 9.5% of monthly salary.
  - **Cannot be used for "tipped" employees.**
  - **At $10/hour, $1,300/month x 12 x 9.5% = $1,482.00 ($123.50/mo)**
- 9.5% of Employee Box 1 W-2 income in premiums for employee-only coverage.
  - Determined at end of calendar year, and on an employee-by-employee basis, based on THIS YEAR's wages.
  - Partial-year adjustments allowed for new employees who work part of a year.
  - **At $20,800/year ($10/hr full time) = $1,976.00 /$164.67m**

Make Sure You Can Answer These Questions Accurately, Monthly, Forever!

- Question 3:

What does the MLR count mean? (Medical Loss Ratio)

Section 26 USC 4980h Compliance; The “employer mandate”

What does MLR "Small" Mean for the Employer?

- MLR count of 2-50 (2-100 starting 1/1/16)
- IF Fully Insured, subject to the Federal Definition of Health Insurance
  - Qualified Health Plan
  - Essential Health Benefits
  - ALL USPSTF Schedule "A" and "B" at first dollar
  - All methods of birth control free for females
  - Metallic Level Plans only
- Membership in the Single Risk Pool
- Pricing based **almost exclusively on AGE**. Small adjustments for tobacco use, geography, family status.
- Averaging of member level premiums being worked out today.

DOES NOT APPLY TO GRANDFATHERED PLANS!!!

What does MLR "Large" Mean for the Employer?

- MLR count of 51+ (101+ starting 1/1/16)
- IF Fully Insured, not subject to the Federal Definition of Health Insurance
  - No wellness requirement
  - No Metallic Level Plans required
- No Membership in the Single Risk Pool
- Pricing based on Group Experience AND experience of similar sized groups.
- Claims, health status, age, gender, other risk factors can create unique price for group.

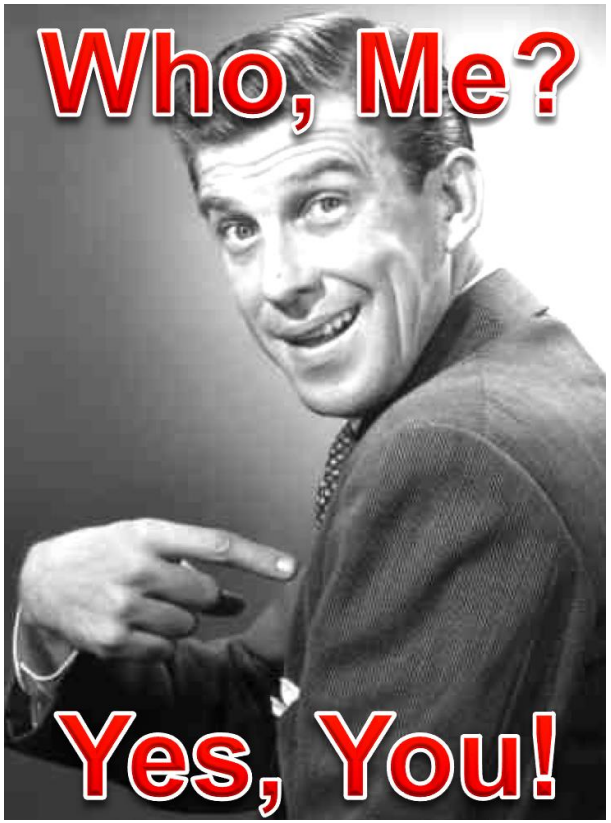
Make Sure You Can Answer These Questions Accurately, Monthly, Forever!

- Question 4:

What New Reporting is Required?

Section 26 USC 4980h Compliance;
The “employer mandate”

MEC (6055)Reporting Rule: Big Picture



- Requires reporting by **Carriers** and **Self Funded Employers** that provide MEC to an individual in a calendar year
  - Single submission is filed with the IRS for all returns for the year
  - Information to be provided by individual statement furnished to Employees
  - Used by individuals and IRS in connection with health care reform's individual mandate
  - Allows verification of months in which an individual had MEC
  - **For enforcement of individual mandate**
  - **Typically results in a 1095B Form**

ALE (6056) Reporting Rule: Big Picture

- Requires reporting by ALEs (employers subject to Code § 4980H shared responsibility rules)
  - **WHAT CAN BCBSLA FILE FOR YOU?**
    - 1095B—For fully insured plans—YES. For Self Funded—NO
    - 1095C—For fully insured Plans—NO. For Self Funded—NO
- What Data Elements Can BCBSLA provide for 1095-C completion? Part III for Self-Funded ONLY….
  - Covered Individual Name
  - DOB
  - SSN (if provided by group in past)
  - Covered all 12 months? (Y/N)
  - Months of Coverage

There are 22 Data Elements on a Fully Completed 1095-C.

Make Sure You Can Answer These Questions Accurately, Monthly, Forever!

- Question 5:

What are the Fines if I get this Wrong?

Section 26 USC 4980h Compliance;
The “employer mandate”

Out of Compliance Fines for ALE's

- 26 US 4980h Section a) ("Alpha" or the "Big Hammer")
  - In 2016—Fail to offer coverage to at least 95% of all full time employees
  - ONE employee goes to www.healthcare.gov and draws a tax credit
  - Fine is (Full Time Count minus 30) x ($2,000/year).
- 26 US 4980h Section b) ("Bravo" or the "Little Hammer")
  - In 2016—Fail to offer affordable, 60% AV coverage to employee and some sort of offer to dependents
  - For EACH employee that refuses the offer and draws a tax credit from www.healthcare.gov, a fine will apply.
  - Fine is (Full Time Employees drawing ATC) x ($3,000/yr.)

Failing to File 1095-B/C's

- $250 for each form for non-filing
- $250 for each missing form

- ***<u>Maximum fine now $5m per firm, per year</u>***
- Employee forms due February 1, 2016 (1/31/16 is a Sunday)
- IRS "PAPER" copies due February 29, 2016
- IRS "ELECTRONIC" filing due March 31, 2016.

See "new" Sec 6721

Preparing for the Inquiries: 2016 and Beyond (How to NOT pay fines)

- Prove you are under 50 on the ALE count or under 100 FTE's in 2015 only.
- Prove employees in question were not full time.
- Prove the employee in question was offered a compliant plan annually.
- File all forms with employees and the IRS on-time.
- **Prove your offer is GROUP INSURANCE, not Individual Policies**

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@MikeBertaut

"You should listen to our Dad because he is a GENIUS!"
(he made us say that cause he's paying for college!!)

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