Health Care Reform

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Discussion Topics

- Health Care Reform Basics
- What Has Health Care Reform Changed?
- Health Care Reform Requires Individuals to Have Health Coverage
- Health Care Reform Requires Large Employers to Offer Health Coverage
- Action Items
- Gallagher Resources

Health Care Reform Basics

Health Care Reform Basics

- Health care reform is just one of many laws that affect employee benefit plans, including:
  - ERISA
  - HIPAA
  - COBRA
  - FMLA
  - ADA
  - Federal tax law

Health Care Reform Basics

Patient Protection and Affordable Care Act

Health Care Reform

PPACA

$%&@#!

Affordable Care Act

ACA

Obamacare

HCR

Health Care Reform Basics

- PPACA signed into law March 23, 2010
  - Components go into effect between 2010 and 2018
- PPACA imposes requirements on
  - **Employers**
  - **Health plans**
  - Insurers
  - Individuals

Health Care Reform Basics

"Grandfathered" Plan Status (GF)	GF Status Lost if Certain Changes Made
• Plan in place before March 23, 2010 • Exempt from certain PPACA provisions – Preventive care – Clinical trials – Patient protections – FI Nondiscrimination rules – OOP Max	• Elimination of benefits • Increase in % cost sharing • Increase in fixed-amount cost sharing • Decrease in employer contributions • Adding annual limit

What Has Health Care Reform Changed?

When Participants are Covered

- Waiting periods limited to 90 days
  - May also have "Orientation Period" of up to one month
    - Caution: ALEs still subject to ESR requirement to offer coverage after 3 full calendar months of employment
- Prohibition on rescissions
  - Retroactive termination of coverage
- Automatic enrollment (effective date TBD)
  - ERs with 200+ employees; opt-out required

How Much Participants Have to Pay for Coverage

- Prohibition on lifetime and annual limits on Essential Health Benefits ("EHBs")
- No cost-sharing on preventive care (GF exempt)
  - Screenings, immunizations, preventive exams, women's contraceptives
- Out of Pocket Maximum ("OOP Max") on EHBs (GF exempt)
  - OOP Max includes deductibles, co-insurance, co-payments, etc.
  - Does not include premium payments
  - For 2015, OOP Max is **$6,660** (single) and **$13,200** (family)

Which Benefits Are Covered

- No pre-existing condition exclusions
- Coverage of expenses related to clinical trials (GF exempt)
- Coverage of EHBs (GF exempt)
  - Applies to individual and small group markets only
  - Transition relief for some plans until 2016

Which Benefits Are Covered

- What are EHBs?
  - (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 and habilitative services and devices;
  - (8) laboratory services;
  - (9) preventive and wellness services and chronic disease management; and
  - (10) pediatric services, including oral and vision care

New Participant Protections

- "Patient Protections" (GF exempt)
  - PCP designations, ER services, etc.
- Appeals and external review (GF exempt)
- Medical loss ratio rebates (FI only)
- Nondiscrimination Rules for FI Plans (GF exempt)
  - Effective date TBD

New Fees for Plans and Employers

- PCORI Fee (PYs ending between 10/1/12 and 9/30/19)
  - Plan sponsor pays if SF; carrier pays if FI
  - **$2.08/person** for PYs ending between 10/1/14 and 9/30/15
  - Due July 31st of calendar year following end of PY
- Transitional Reinsurance Fee (2014-2016)
  - Plan sponsor pays if SF; carrier pays if FI
  - **$44/person** for 2015 calendar year
  - Paid in two installments the following calendar year

New Fees for Plans and Employers

- Health Insurer Fee
  - Applies to FI plans only; carrier pays
- "Cadillac Tax" (2018)
  - Tax on high-cost health coverage
    - Cost of coverage based on COBRA applicable premium
    - 40% excise tax on "excess benefit" imposed on employer
      - Excess benefit is cost above $10,200 (single) and $27,500 (family)
        - » Subject to adjustments based on healthcare costs, age, gender, and cost-of-living adjustments
        - » Higher threshold for high risk professions and retiree coverage

New Reporting Requirements for Plans and Employers

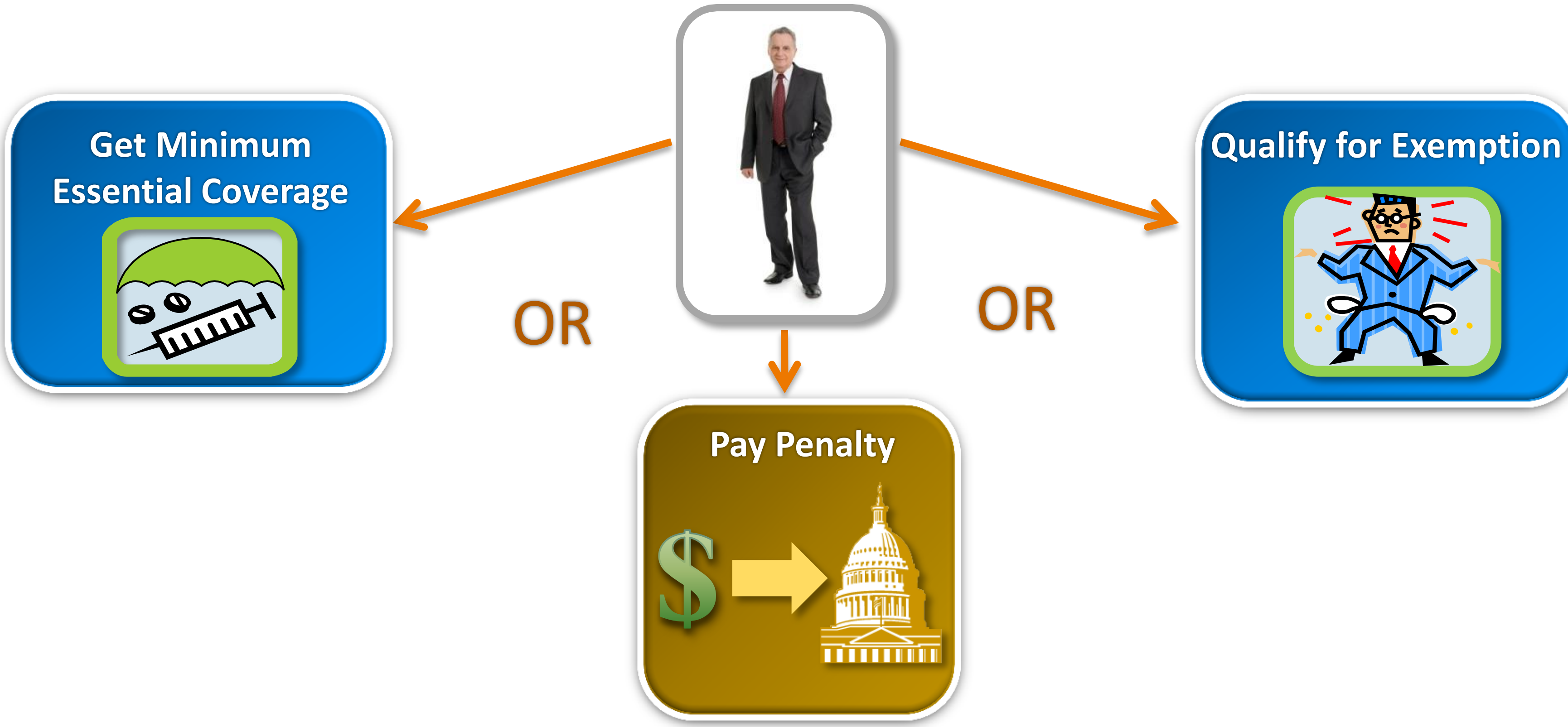
- Summary of Benefits and Coverage
  - Expands ERISA's disclosure requirements
- W-2 Reporting
  - For now, only applies to employers that file 250+ W-2s
  - Cost of employer-sponsored health coverage
- Quality of Care Reporting (GF exempt)
  - Effective date TBD

New Reporting Requirements for Plans and Employers

- Reporting Under § 6055 and § 6056 (2016)
  - § 6055 Minimum Essential Coverage (“MEC”) Reporting
    - Applies to self-funded plans
  - § 6056 Applicable Large Employer (“ALE”) Reporting
    - Applies to ALEs
  - Gather information in 2015
  - Report to IRS annually beginning early 2016

Health Care Reform Requires Individuals to Have Health Coverage

Individual Mandate



Individual Mandate Penalties

Penalty amount is the greater of:

Year	Flat Dollar Amount (max of 300% for family)	% of Household Income
2014	$95	1.0%
2015	$325	2.0%
2016	$695	2.5%
After 2016	$695, indexed for inflation in $50 increments	2.5%

Premium Tax Credits

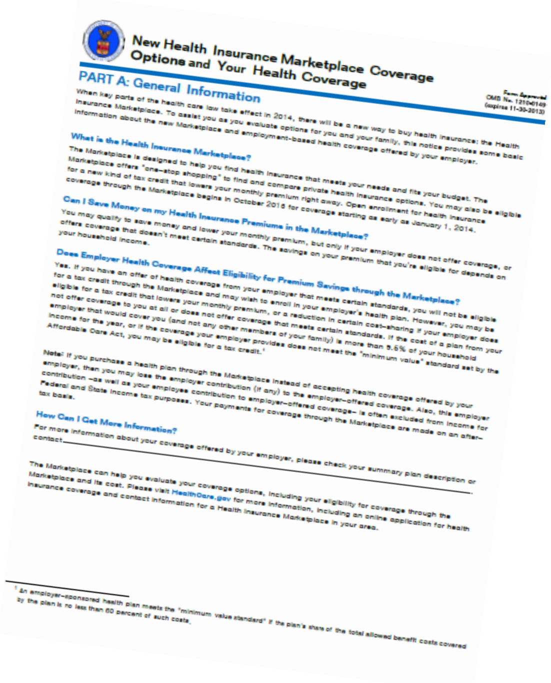
- To help low-income individuals obtain MEC and avoid Individual Mandate penalties, PPACA provides for premium tax credits for certain individuals
  - A premium tax credit is an advanceable, refundable, tax credit designed to help low income individuals and families pay for coverage purchased at the Marketplace
- Who is eligible for a premium tax credit?
  - Generally, taxpayers with household incomes of 100%-400% of Federal Poverty Line who purchase insurance through the Exchange

Premium Tax Credits

- Who is not eligible for a premium tax credit?
  – Individuals who are **eligible** for employer-sponsored MEC that provides minimum value and is affordable
    - In order to be “affordable,” only **self-only coverage** needs to be meet affordability requirements (no more than 9.56% of household income)
  – Individuals who are **enrolled** in enrolled in employer-sponsored MEC
    - Even if the MEC doesn’t meet affordability and/or minimum value requirements)

Marketplace Notice

- Provides basic information to new employees about:
  - The new Marketplace
  - Health coverage offered through their employers (if applicable)
- Distribute within 14 days of hire
  - First class mail
  - Electronic (follow DOL standards)
  - Hand delivery



New Health Insurance Marketplace Coverage Options and Your Health Coverage

Form Approved
OMB No. 1210-0149
(expires 11-30-2013)

PART A: General Information

When key parts of the health care law take effect in 2014, there will be a new way to buy health insurance: the Health Insurance Marketplace. To assist you as you evaluate options for you and your family, this notice provides some basic information about the new Marketplace and employment-based health coverage offered by your employer.

What is the Health Insurance Marketplace?

The Marketplace is designed to help you find health insurance that meets your needs and fits your budget. The Marketplace offers "one-stop shopping" to find and compare private health insurance options. You may also be eligible for a new kind of tax credit that lowers your monthly premium right away. Open enrollment for health insurance coverage through the Marketplace begins in October 2013 for coverage starting as early as January 1, 2014.

Can I Save Money on my Health Insurance Premiums in the Marketplace?

You may qualify to save money and lower your monthly premium, but only if your employer does not offer coverage, or offers coverage that doesn't meet certain standards. The savings on your premium that you're eligible for depends on your household income.

Does Employer Health Coverage Affect Eligibility for Premium Savings through the Marketplace?

Yes. If you have an offer of health coverage from your employer that meets certain standards, you will not be eligible for a tax credit through the Marketplace and may wish to enroll in your employer's health plan. However, you may be eligible for a tax credit that lowers your monthly premium, or a reduction in certain cost-sharing if your employer does not offer coverage to you at all or does not offer coverage that meets certain standards. If the cost of a plan from your employer that would cover you (and not any other members of your family) is more than 9.5% of your household income for the year, or if the coverage your employer provides does not meet the "minimum value" standard set by the Affordable Care Act, you may be eligible for a tax credit.[1]

Note: If you purchase a health plan through the Marketplace instead of accepting health coverage offered by your employer, then you may lose the employer contribution (if any) to the employer-offered coverage. Also, this employer contribution -as well as your employee contribution to employer-offered coverage- is often excluded from income for Federal and State income tax purposes. Your payments for coverage through the Marketplace are made on an after-tax basis.

How Can I Get More Information?

For more information about your coverage offered by your employer, please check your summary plan description or contact________________________.

The Marketplace can help you evaluate your coverage options, including your eligibility for coverage through the Marketplace and its cost. Please visit HealthCare.gov for more information, including an online application for health insurance coverage and contact information for a Health Insurance Marketplace in your area.

[1] An employer-sponsored health plan meets the "minimum value standard" if the plan's share of the total allowed benefit costs covered by the plan is no less than 60 percent of such costs.

How is the Individual Mandate Enforced?

- § 6055 Reporting
  - Self-funded plans of any size must submit § 6055 reporting on a yearly basis, beginning with the 2015 calendar year
  - Reporting on which individuals were enrolled in MEC for each month of the calendar year
  - Individual mandate penalties will be assessed by IRS against individuals who were not enrolled in MEC for each month of the calendar year
    - Some exceptions apply
  - Reporting for 2015 will be due in spring 2016

Health Care Reform Requires Large Employers to Offer Health Coverage

(or Pay a Penalty)

Employer Shared Responsibility

- Employer Shared Responsibility is the choice of Applicable Large Employers to offer Minimum Essential Coverage to FT employees and their dependent children or pay a penalty
  - Lowest cost employee-only coverage offered to FT employees must also be “affordable” and provide “minimum value”

ESR Applies to ALEs

- ESR provisions apply to "Applicable Large Employers" ("ALEs")
  - ALEs average of at least 50 FT and FTE employees during preceding calendar year
    - Calculating Number of Full-Time Equivalent Employees ("FTEs")
      - Add up hours of service (not to exceed 120 per employee) for all non-FT employees for that month and divide by 120
- ALE status determined on a "controlled group" basis

Who is a Full-Time employee?

- Employers must "count hours" to determine whether or not employees qualify as FT
  - Look-back Method
    - Used to determine, in advance of a coverage period, which EEs qualify as FT
    - Must use this method for non-FT employees with unpredictable hours
  - Monthly Measurement Method
    - Used to determine, on a month-to-month basis, which employees qualify as FT
    - Not practical for employees with unpredictable hours who are not automatically eligible for coverage

Who is a Full-Time employee?

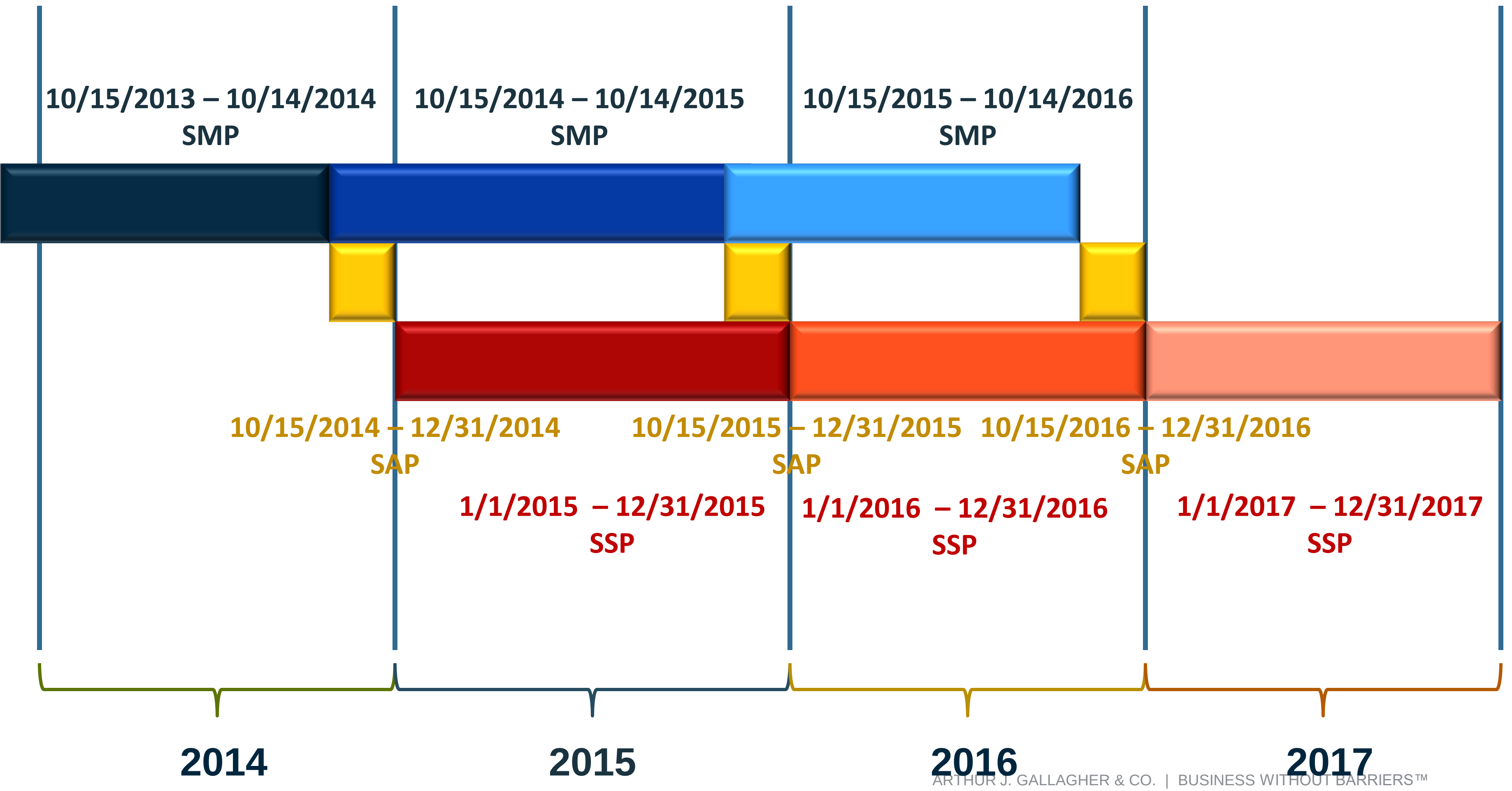
- Look-back Method
  - Measurement Period
    - 3 to 12 months (12 is easiest to administer)
  - Administrative Period
    - Up to 90 days
  - Stability Period
    - Same length as Measurement Period, but at least 6 months

Who is a Full-Time employee?

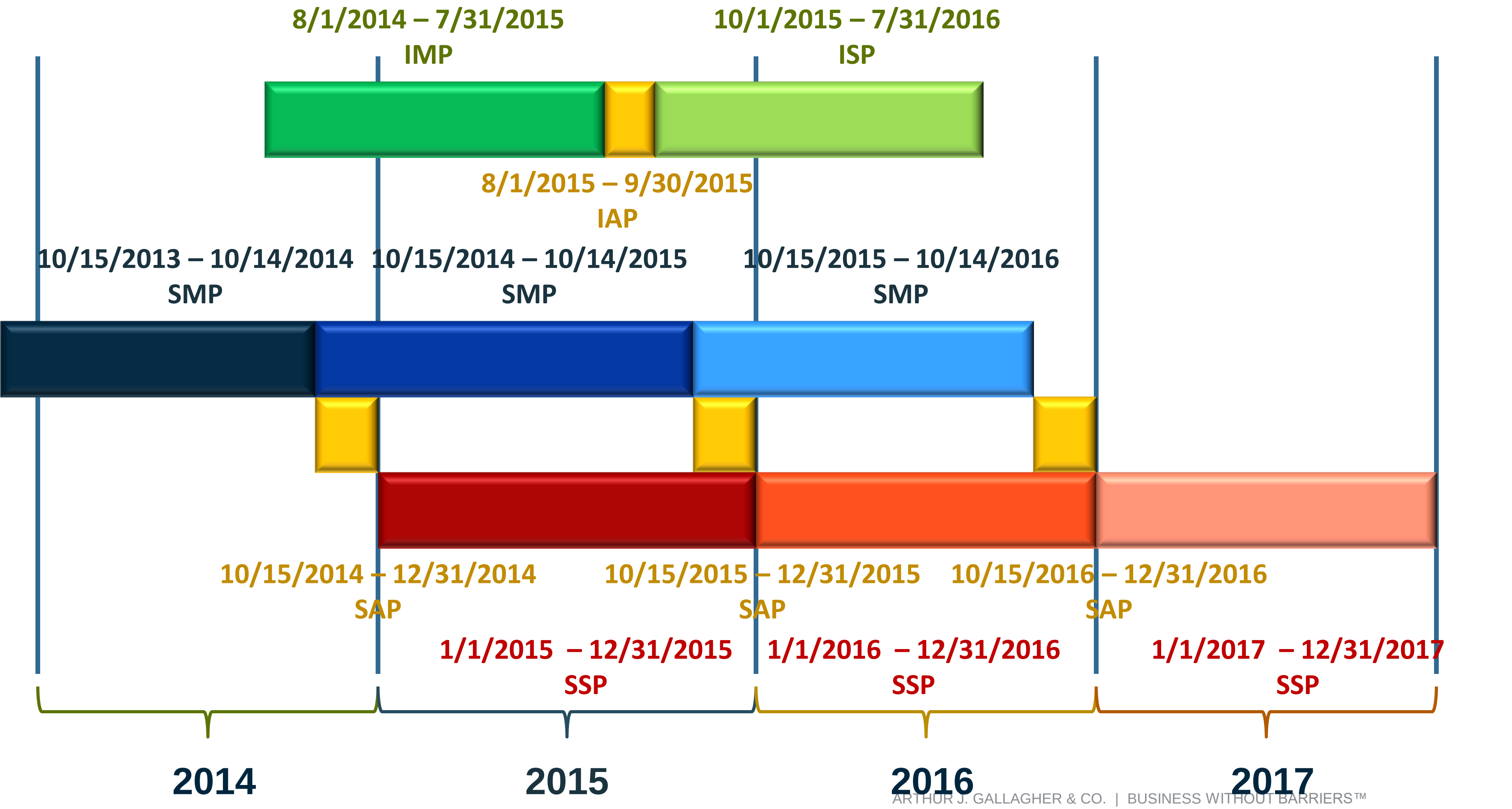
- Look-back Method for "Ongoing Employees"
  - Employees employed on the first day of the Standard Measurement Period
  - Use "Standard" Measurement, Administrative, and Stability Periods
- Look-back Method for "New Employees"
  - **Non-FT** employees hired after the first day of the Standard Measurement Period
  - Use "Initial" Measurement, Administrative, and Stability Periods
    - New Employees who test as FT in IMP must be offered coverage by 13 months and a fraction of a month from DOH

Counting Hours: Ongoing Employees

12 month MP • 77 day AP • 12 month SP



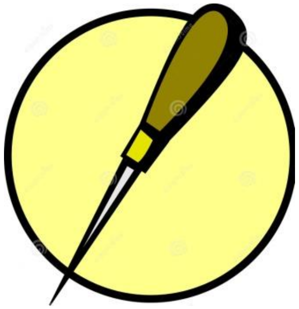
Counting Hours: New Non-FT Employees



Penalty Triggers

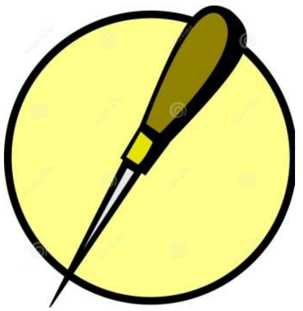
- Failure to offer MEC
  - Must offer to 95% of FT EEs and dependent children of FT EEs
    - Includes adopted children and those placed for adoption
    - Not required to offer coverage to spouses, stepchildren, or foster children
  - Must offer annual opportunity to enroll
  - May trigger $2,000 “sledgehammer” penalty
    - $2,000 ($2,080 in 2015) per FT employee, triggered if one employee receives a premium subsidy at the Marketplace

Penalty Triggers



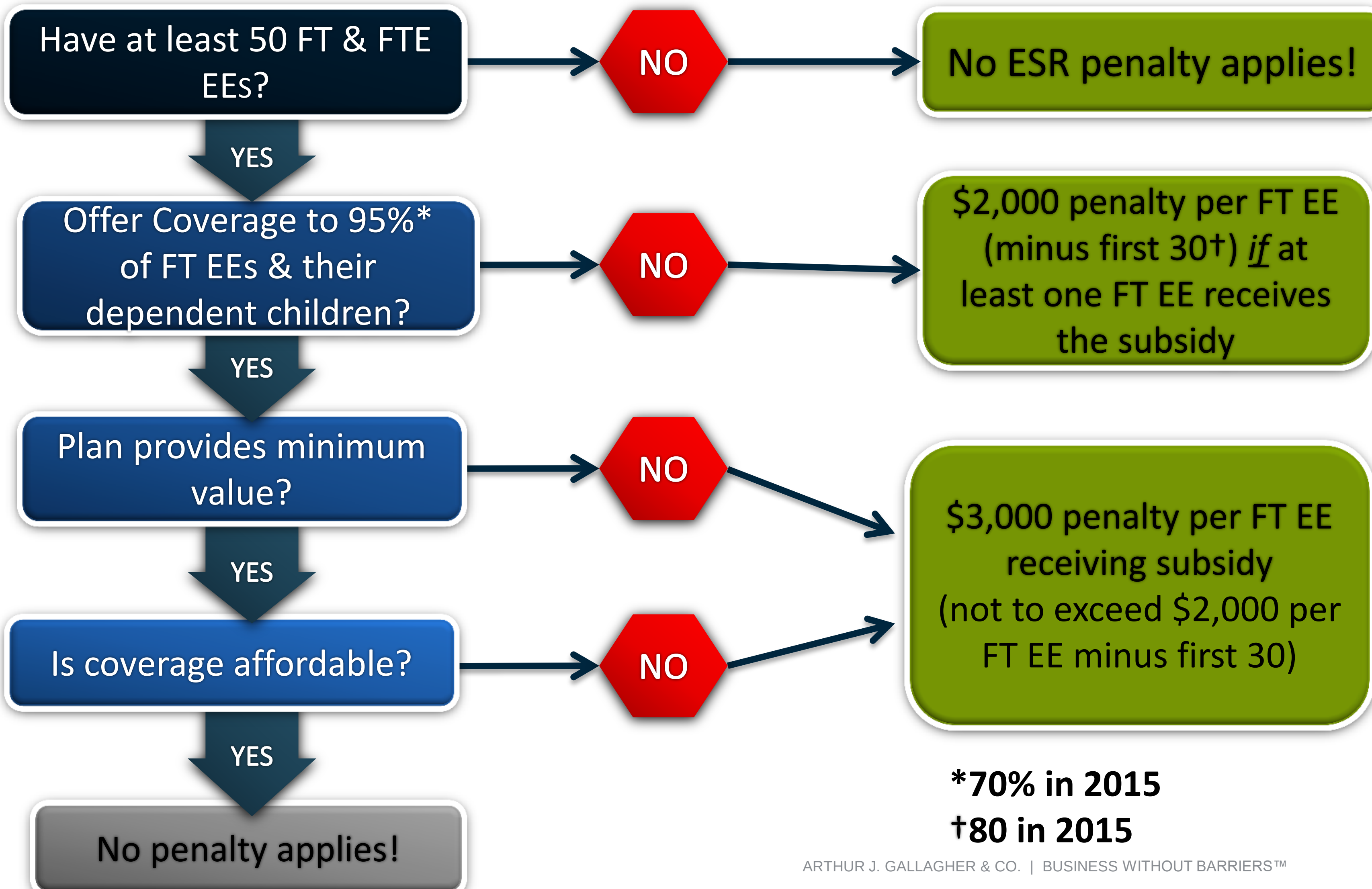
- Failure to offer <u>affordable</u> coverage
  - Employee share of lowest cost EE-only coverage providing MV must not exceed 9.56% of EE's household income
  - Employers may use one of three "affordability safe harbors" to determine household income
    - W-2, Rate of Pay, Federal Poverty Line
    - When using safe harbors, cost may not exceed 9.5%
  - Triggers $3,000 "ice pick" penalty
    - $3,000 ($3,120 in 2015) per FT employee that receives a premium subsidy at the Marketplace

Penalty Triggers



- Failure to offer minimum value coverage
  - Plan must pay for at least 60% of cost of benefits
    - Equivalent to a Bronze level plan at the Marketplace
  - Triggers $3,000 “ice pick” penalty
    - $3,000 ($3,120 in 2015) per FT employee that receives a premium subsidy at the Marketplace

Employer Shared Responsibility



***70% in 2015**

†80 in 2015

When Does it Begin?

- Originally kicked in on 1/1/2014
- The new “default” date is 1/1/2015
- Transition relief allows for a later effective date for certain employers
  - Transition relief is not automatic
  - To avoid penalties, make sure client meets transition relief criteria delaying ESR compliance

Transition Relief

- "Mid-size" ALEs (50-99 FT and FTE employees)
  - May be eligible for delay until first day of 2016 plan year
- "Large" ALEs (100+ FT and FTE employees) with non-calendar plan years
  - May be eligible for delay until first day of 2015 plan year
  - May also be eligible for other transition relief

Transition Relief

- ALEs (100+ FT and FTE EEs)
  - May be eligible for reduction of required offer of coverage from 95% of FT EEs and their dependent children to 70% for 2015 plan year
- There is no transition relief for § 6055 and § 6056 reporting!
  - All ALEs must report for 2015 calendar year in early 2016

How is ESR Enforced?

- § 6056 Reporting
  - ALEs must submit § 6056 reporting on a yearly basis, beginning with the 2015 calendar year
  - Reporting includes which employees were FT and whether they were offered (along with their dependent children) ESR-compliant coverage for each month of the calendar year
  - ESR penalties will be assessed by IRS against employers who did not offer FT employees ESR-compliant coverage
  - Reporting for 2015 will be due in early 2016
  - **Employers eligible for an ESR delay pursuant to transition relief must still submit reporting for 2015**

Action Items

Action Items

- Employer Shared Responsibility
  - Is the client subject to it?
  - If so, when does it kick in for the client?
  - When it does kick in, is the client ready?
    - Does client have <u>any</u> employees who are not offered coverage?
      - These employees may trigger ESR penalty liability, and their hours must be counted to prove they are not FT
      - Engage a vendor to help count hours

Action Items

- Reporting Under § 6055 and § 6056
  - **Self-funded plans** and **ALEs** must report
  - Begin information gathering in 2015
  - File reporting in early 2016
  - Engage a vendor now!
    - Standalone system
    - Integrated with benefits administration system
    - Integrated with payroll system

Thank You

Gallagher Benefit Services

Tom Besselman, Consultant
Kim Breard, Consultant
Michael Baker, Compliance Attorney

225-767-0334