Starting Strong for Community Health!
Webinar
Employer Sponsored Health Care Coverage and the ACA

October 8, 2014
Updates:

- Connecting Communities to Coverage Trainings
  - Hands-on workshops in Cook and collar counties
  - For dates and to register: [http://www.ilmaternal.org/hcr/files/CHIPRAtraining sflyer.pdf](http://www.ilmaternal.org/hcr/files/CHIPRAtraining sflyer.pdf)

- Next Starting Strong for Community Health!
  - Webinar:
    - “Staying Covered: ACA Marketplace Renewals”
    - Thursday, October 30th 2:00-3:00pm
    - To Register [http://www.ilmaternal.org/webinars.html](http://www.ilmaternal.org/webinars.html)
Today’s Speakers

Susan Nash,
Partner, McDermott Will &Emery LLP

Stephanie Altman,
Assistant Director of Health Care Justice
Sargent Shriver National Center on Poverty Law

Questions?
Ask questions using the chat box feature

If we are unable to answer your question during the webinar we will make sure to get an answer and email it to you.
Employer Sponsored Health Coverage and the Affordable Care Act

Susan M. Nash
McDermott Will & Emery
October 8, 2014
The Affordable Care Act (ACA)

- **The Patient Protection and Affordable Care Act (ACA)**
  - Signed into law by President Obama on March 23, 2010
  - Public Law (PL) 111-148

- **The Health Care and Education Reconciliation Act**
  - Also signed into law on March 30, 2010
  - PL 111-152
  - Made revisions to the ACA

- **Taken together—comprehensive health care reform**
ACA—The Basics

- Expansion of health insurance coverage
- Insurance market reform
- Delivery system reform
- Controlling health care costs
Expanding Coverage

- Individual Mandate
- Employer Mandate
- Expansion of Medicaid (the federal/state program for the low-income and disabled)
- Premium and Cost-Sharing Subsidies
Insurance Market Reforms

- Creation of Health Insurance Exchanges
  - Individual
  - Small Business Health Options Program (SHOP)
  - State-based, Federally-run, or a hybrid of the two
- Guaranteed issue and renewability
- Coverage for pre-existing conditions
- Medical Loss Ratio (MLR) requirements
- Non-discrimination requirements
The ACA is Here to Stay

Supreme Court Decision

- June 28, 2012, the Supreme Court of the United States upheld the most significant provisions of the ACA
- Individual Mandate was upheld under Congress’ taxing authority
- Medicaid expansion is generally upheld, but federal government cannot enforce expansion on states by withholding original Medicaid funding

Reelection of President Obama

- President’s reelection means no efforts to overturn or scale-back parts of the law via Executive Order, as would likely have been attempted under a GOP Administration
Timeline—Changes Already Implemented

- Prohibition on lifetime coverage limits
- Restrictions on annual limits
- Coverage of preventive health services with no cost-sharing
- No retroactive termination of coverage (except under limited circumstances)
- No coverage of over the counter drugs in health savings accounts (HSA), health reimbursement accounts (HRA) and health flexible spending accounts (FSA)
Timeline—Changes Already Implemented

- No pre-existing condition exclusions under age 19
- Coverage of adult dependent children to age 26
- Group health plan insurers must provide rebates to their customers if their medical loss ratios (MLRs) are below 85% in the large group market and below 80% in the small group and individual market. This requirement does not apply to self-insured plans.
Timeline—2014 Changes

- Guaranteed Issue and Guaranteed Renewability
- Elimination of Pre-Existing Condition Exclusions: Plans may not impose pre-existing condition exclusions on any participant
- Annual Limits: Plans are restricted from imposing annual limits on essential health benefits
- Waiting Periods: Plans are not permitted to have eligibility waiting periods that are greater than 90 days
- No Eligibility Discrimination
Timeline—2014 Changes

- Creation of Exchanges: States and the federal government have established Health Insurance Marketplaces through which individuals and small businesses may purchase health insurance
  - Federal government steps in when states opt not to participate
  - Exchanges are fully operational

- Notification of Exchange: Employers are required to notify each employee at the time of hiring
  - The existence of the Exchange;
  - That the employee may be eligible for a federal subsidy under the Exchange if the employer’s share of the total cost of benefits is less than 60%; and
  - That if the employee purchases a policy through the Exchange, he or she will lose the employer contribution to any health benefits offered by the employer
Timeline—2015 Changes

- **Employer Mandate Takes Effect**
  - Employer has 50 or more full time employees or full time equivalent employees (FTEs)(100 or more in 2015)
    - Employer will face penalty beginning in 2015 for not offering any coverage or for not offering affordable, minimum value coverage under the ACA
  - Employer has less than 50 FTEs
    - Considered a small employer, penalties under the employer mandate do not apply
  - Employer has 25 or fewer FTEs
    - No penalties under the employer mandate. Small business tax credit may apply
Employer Mandate

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]

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

Do you have more than 30 full-time employees?

Do you provide health insurance?

Pay Monthly Penalty, lesser of:
1/12 x $2,000 x (Number of full-time employees - 30)

Pay Monthly Penalty
1/12 x $2,000 x (Number of full-time employees who receive credits for exchange coverage)

Source: CRS analysis of P.L. 111-148 and P.L. 111-152
Subsidies under Code Section 36B - Individuals and families may qualify for a subsidy in the form of an advance tax credit if their household income is between 100% and 400% of the federal poverty level, are not eligible for coverage through a government-sponsored program like Medicaid or CHIP, and are not eligible for coverage offered by an employer or are eligible only for employer coverage that is unaffordable or that does not provide minimum value.

Individual subsidies -

- For instance, a family of four with an income of 200% of the poverty level, or about $46,000 in 2012, will pay no more than $235 a month for health insurance.
- Individuals with household incomes of less than 250% of the poverty level will also get subsidies to reduce their out-of-pocket costs, such as deductibles and coinsurance.
Who is an FTE?

- IRS Common Law Definition – an individual working 30 or more hours (on average) per week

- The IRS has defined an hour of service to mean each hour for which an employee is paid, or entitled to payment, for the performance of duties for the employer; and each hour for which an employee is paid, or entitled to payment by the employer for a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, or leave of absence

- Can use look back methods to determine FTE status for variable hour, part-time, seasonal and temporary employees
Employer Mandate

- Applies to all plans with 50 or more full time employees (FTEs) (100 in 2015)
- “A Penalty” - Non-deductible excise tax applies for no coverage offered or coverage offered to less than 95% of FTEs (70% in 2015)
  - Penalty if one FTE obtains a premium tax credit on an Exchange
  - $2,000 per FTE in excess of 30 employees (80 employees in 2015)
- “B” Penalty - Non-deductible excise tax for providing coverage that is unaffordable or not minimum value and employee receives a premium tax credit on an Exchange
  - Penalty of $3,000 per FTE who receives a federal subsidy capped at $2,000 per FTE in excess of 30 employees (80 in 2015)
  - Unaffordable coverage means it exceeds 9.5% of the individual’s household income (regulations include safe harbors for W-2, rate of pay and FPL)
  - The employee falls within 100%-400% of the federal poverty level; and
  - The plan’s share of allowed costs under the plan is less than 60%
Employer Mandate

**Determining Minimum Value**

- Employer’s plan must be affordable, or meet a minimum value, in order to meet the ACA’s employer coverage requirement.
- The plan must cover at least 60% of the total allowed cost of benefits that are expected to be incurred under the plan.
- A minimum value calculator will be made available by the IRS and the Department of Health and Human Services (HHS).
- Employers can input certain information about their plan, such as deductibles and co-pays, into the calculator and get a determination as to whether the plan provides minimum value.
Individual Mandate

- The penalty starts at $95, $285 per family, or 1% of income (whichever is greater)
- It gradually increases until it hits 2.5% or $695, $2,085 per family (whichever is greater) by 2016
What is Minimum Essential Coverage (MEC)?

- Eligible employer-sponsored coverage, including self-insured plans, COBRA coverage and retiree coverage
- Coverage purchased in the individual market, including a qualified health plan offered by the Health Insurance Marketplace
- Medicare Part A coverage and Medicare Advantage plans
- Most Medicaid coverage
- Children's Health Insurance Program (CHIP) coverage
- Certain types of veterans health coverage administered by the Veterans Administration
- Most types of TRICARE coverage under chapter 55 of title 10 of the United States Code
- Coverage provided to Peace Corps volunteers
What is Minimum Essential Coverage (MEC) (continued)?

- Refugee Medical Assistance supported by the Administration for Children and Families
- Self-funded health coverage offered to students by universities for plan or policy years that begin on or before Dec. 31, 2014
  - For later plan or policy years, sponsors of these programs may apply to HHS to be recognized as minimum essential coverage
- Coverage under the Nonappropriated Fund Health Benefit Program
- State high risk pools for plan or policy years that begin on or before Dec. 31, 2014 (for later plan or policy years, sponsors of these programs may apply to HHS to be recognized as minimum essential coverage)
- Other coverage recognized by the Secretary of HHS as minimum essential coverage
Minimum Essential Coverage

- Employer group medical coverage must include preventive care services with no lifetime or annual dollar limits on essential health benefits.
- Self-insured coverage does not have to cover essential health benefits.
- Must offer coverage to biological and adopted children through the end of the month of the child’s 26th bday.
- Not required to offer spousal coverage.
Minimum Essential Coverage

- Excepted Benefits are not Minimum Essential Coverage
  - Hospital Indemnity or other Fixed Indemnity Insurance
  - Critical Illness Insurance
  - Limited Scope Dental or Vision
  - Long Term Care
  - Accident or Disability Insurance
Employer Reporting (Effective 2015)

- Employer Reporting of Minimum Essential Health Coverage
  - Health Insurers and employers providing minimum essential coverage to an individual during the calendar year will report to IRS and affected individuals on Form 1094-B and 1095-B

- Large Employer Group Health Plan Reporting
  - Employers subject to employer shared responsibility will report to IRS and affected individuals on Form 1095-B and 1095-C
Valuable Web Resources

- Kaiser Family Foundation (KFF)
  - http://healthreform.kff.org/

- National Federation of Independent Business (NFIB)
  - http://www.nfib.com/business-resources/healthcare

- HHS Regulations

- IRS Regulations
Small Employers in the Marketplace

Learning Objectives

- Understand what employers can use the SHOP
- Explore the small employer tax credit
- Prepare you to refer employers interested in the Marketplace to a Navigator or Insurance Broker
Introducing SHOP for Small Employers

- Allows employers to provide QHPs to their employees.
- Even though small employers are not mandated to provide coverage, the SHOP is an option they can leverage if they choose to.
- Many small employers will qualify for small business tax credits to offset premium.
Which Employers can use the SHOP...

Larger Business
(51+ FTEs)

Small Business
(50 or fewer FTEs)
Full Time Equivalents (FTEs)

**FTE is used to determine**

- If business is large and subject to employer mandate
- If business is able to purchase on the SHOP
- If business is eligible for small business tax credit

**FTE includes**

- All employees that work 30+ hours a week
- Part-time employees converted to FTEs through a calculation of annual hours worked
- Excludes seasonal employees working <120 days/yr
Small Business Tax Credit

- Benefit: Tax credit helps relieve some of the costs of contributing to your employees’ premiums
- Size: 2 – 24 full-time equivalent employees, average salaries of about $50,000 or less
- Type: Both for-profit and nonprofit small businesses
- On SHOP: Receive this tax credit when you buy coverage through SHOP
## Assisters & Brokers in the Marketplace

<table>
<thead>
<tr>
<th>Employment Setting</th>
<th>Assister</th>
<th>Broker</th>
</tr>
</thead>
<tbody>
<tr>
<td>Typically in a non-profit community, health or faith-based organization. Funded through grants.</td>
<td></td>
<td>Works either in an independent agency or as a sole proprietor. Income generated from insurance commissions and/or consulting fees.</td>
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</table>

<table>
<thead>
<tr>
<th>Certification, Training, Licensure Required.</th>
<th>Assister</th>
<th>Broker</th>
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</thead>
<tbody>
<tr>
<td>Federal and State Marketplace Certification.</td>
<td></td>
<td>Illinois Insurance License, Federal and State Marketplace Certification</td>
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<table>
<thead>
<tr>
<th>Professional Exposure</th>
<th>Assister</th>
<th>Broker</th>
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<tbody>
<tr>
<td>Grant review/accountability measures.</td>
<td></td>
<td>Must carry bond, errors &amp; omission insurance policy.</td>
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<table>
<thead>
<tr>
<th>Outreach</th>
<th>Assister</th>
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<tr>
<td>Targeting underserved, mostly currently un or under insured.</td>
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<td>Will continue to market to businesses and individuals that will buy on and off the Marketplace</td>
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<table>
<thead>
<tr>
<th>Education</th>
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<tbody>
<tr>
<td>Explain new options under ACA</td>
<td></td>
<td>Explain new options under ACA, Employer Compliance, Legal and Tax Issues. Advantages of buying on and off the Marketplace.</td>
</tr>
</tbody>
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<tr>
<th>Enrollment</th>
<th>Assister</th>
<th>Broker</th>
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<tr>
<td>Will assist individuals &amp; small employers in the process.</td>
<td></td>
<td>Will assist individuals, small and large employers in the process.</td>
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<table>
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<tr>
<th>Plan/Policy Choice</th>
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<th>Broker</th>
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<tr>
<td>Inform, but not Advise/Recommend</td>
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<td>Inform, Advise ,and Recommend</td>
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<th>Insurance Policy Analysis</th>
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<th>Broker</th>
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<td>n/a</td>
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<td>Expected</td>
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<table>
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<tr>
<th>Employer Compliance</th>
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<tbody>
<tr>
<td>n/a</td>
<td></td>
<td>Expected</td>
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<thead>
<tr>
<th>Claims Advocacy &amp; Resolution</th>
<th>Assister</th>
<th>Broker</th>
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<tbody>
<tr>
<td>Refer to OCHI</td>
<td></td>
<td>Expected</td>
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Agents & Brokers Tool

Find Agents & Brokers

You can talk to someone for free about your coverage options. Federally certified insurance agents and brokers are another free resource for individuals and small business owners. In addition to providing assistance, they can recommend specific insurance plans for you, your family, or your business. To find an agent near you, enter your zip code or address below and indicate if you are looking for individual/family or small business coverage.

You can also click on one of the following links to find an agent or broker near you:
- Independent Insurance Agents of Illinois
- National Association of Health Underwriters
- National Association of Insurance and Financial Advisors

Get help in your area

Enter your address or ZIP Code
Distance within: 5 miles
Select a language: English
Certified to provide: Individual Marketplace Assistance
Search >

Explore your health coverage options
Get ready now by answering a few quick questions to learn what you need to know
See your options >

Get help in your area
Get help now >
or Call (866) 311-1119:
Open Monday - Saturday, 8am - 8pm

FAQ
FAQs & resources
Choosing the right health insurance plan can be confusing at times. Common questions about the new health insurance options are available. Read More >>

Key terms
Learn more about the health care terms and phrases used on this site.
Questions?

Ask questions using the chat box feature

If we are unable to answer your question during the webinar we will make sure to get an answer and email it to you.

Contact us:
• asiani@everthriveil.org

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