



## **HEALTH CARE REFORM 2010**

### ***A CHRONOLOGICAL OVERVIEW OF THE LAW'S OBLIGATIONS FOR EMPLOYERS***

**Henry Smith  
Smith & Downey**

*[Note that this presentation is merely a very broad overview of only some of the more important provisions of the health care reform law that affect employers. This presentation should not be viewed as legal advice for any particular situation.]*

**THE LEGISLATION:**

PATIENT PROTECTION AND AFFORDABLE CARE ACT – March 23, 2010

plus

HEALTH CARE AND EDUCATION RECONCILIATION ACT – March 30, 2010

equals

THE 2010 HEALTH CARE REFORM LAW

**WHAT THE CONGRESS DECIDED:**

1. TO CONTINUE THE CURRENT APPROACH OF THE COMBINATION OF PRIVATE, FOR-PROFIT (OR SELF-FUNDED), PLUS GOVERNMENT-PROVIDED, HEALTH COVERAGE FOR AMERICANS.
  
2. TO CONTINUE, AND FOR THE FIRST TIME MANDATE, THE CONCEPT OF EMPLOYERS SHARING IN THE COSTS OF THEIR EMPLOYEES' HEALTH CARE.
  
3. TO APPLY THE NEW RULES TO INSURED PLANS, SELF-FUNDED PLANS, HEALTH INSURANCE CARRIERS, AND PRIVATE SECTOR AND GOVERNMENTAL EMPLOYERS (WITH SOME CHURCH PLAN EXEMPTIONS).
  
4. TO MANDATE THAT MOST INDIVIDUALS ACQUIRE HEALTH COVERAGE OR PAY A PENALTY.
  
5. TO MAKE A NUMBER OF OTHER CHANGES TO U.S. HEALTH CARE LAW NOT DIRECTLY RELATED TO EMPLOYERS AND EMPLOYEES.

## THE TIME LINE

CONGRESS PROVIDED A RELATIVELY RELAXED "GLIDE PATH" FOR EMPLOYER COMPLIANCE WITH THE CHANGES IN THE LAW:

*-ONE OF THE CHANGES IS EFFECTIVE JUNE 23, 2010*

*-A NUMBER OF CHANGES ARE EFFECTIVE FOR THE FIRST HEALTH PLAN YEAR BEGINNING AFTER SEPTEMBER 22, 2010 (THAT IS, ON JANUARY 1, 2010 FOR CALENDAR YEAR HEALTH PLANS)*

*-ONE OF THE CHANGES IMPACTS 2011*

*-SEVERAL CHANGES ARE EFFECTIVE JANUARY 1, 2012*

*-SEVERAL CHANGES ARE EFFECTIVE JANUARY 1, 2013*

*-A NUMBER OF CHANGES ARE EFFECTIVE JANUARY 1, 2014*

*-ONE OF THE CHANGES IS EFFECTIVE JANUARY 1, 2016*

*-ONE OF THE CHANGES IS EFFECTIVE JANUARY 1, 2017*

*-ONE SIGNIFICANT CHANGE IS EFFECTIVE JANUARY 1, 2018*

*-ONE OF THE CHANGES IS EFFECTIVE JANUARY 1, 2020*

*-"GRANDFATHERED" PLANS (PLANS IN EXISTENCE ON MARCH 23, 2010) HAVE MUCH MORE RELAXED COMPLIANCE OBLIGATIONS THAN NON-GRANDFATHERED PLANS*

*-NATURALLY, CHANGES MAY BE MADE TO ONE OR MORE OF THE LAW'S PROVISIONS BEFORE THE APPLICABLE EFFECTIVE DATES.*

*-REGULATIONS FROM VARIOUS REGULATORY AGENCIES (PRIMARILY HHS, THE TREASURY/IRS AND THE DOL) ARE REQUIRED UNDER THE LAW BEFORE A NUMBER OF THE LAW'S PROVISIONS BECOME EFFECTIVE AND/OR MAY BE IMPLEMENTED.*

## **WHAT SHOULD EMPLOYERS DO?**

1. REVIEW GENERALLY ALL OF THE EMPLOYER-RELATED PROVISIONS OF THE LAW.
  
2. IDENTIFY THE EMPLOYER'S "GRANDFATHERED" AND NON-GRANDFATHERED HEALTH PLANS.
  
3. UNDERSTAND THE EMPLOYER COMPLIANCE TIMELINE AND PREPARE SUFFICIENTLY IN ADVANCE FOR THE VARIOUS EMPLOYER COMPLIANCE OBLIGATIONS.
  
4. STRATEGIZE ABOUT UPCOMING "BIG PICTURE" DECISIONS (SUCH AS WHETHER TO PLAY OR PAY, ETC.).
  
5. MONITOR DEVELOPMENTS CAREFULLY, ESPECIALLY FOR POTENTIAL CHANGES TO THE LAW AND IMPLEMENTING REGULATIONS FROM THE REGULATORS.
  
6. CONSULT WITH THE EMPLOYER'S HEALTH CARE BROKER/ADVISOR AND ERISA COUNSEL ABOUT THE MOST EFFECTIVE MEANS TO RESPOND TO AND COMPLY WITH THE LAW.
  
7. NOTE THAT, AS WITH MANY EMPLOYEE BENEFIT LAW CHANGES, RESPONDING EFFECTIVELY TO THE LAW WILL REQUIRE CLOSE COOPERATION AND CONSULTATION BETWEEN AN EMPLOYER'S HUMAN RESOURCES AND FINANCE DEPARTMENTS.

## 2010 ITEMS

1. **JUNE 23, 2010 CHANGE:** IF THE EMPLOYER MAINTAINS A RETIREE HEALTH PLAN, DETERMINE WHETHER FEDERAL REIMBURSEMENT FOR SOME EARLY RETIREE (AGE 55-64) CLAIMS IS AVAILABLE, UNTIL THE EARLIER OF WHEN THE \$5B FUNDING FOR THE REIMBURSEMENTS RUNS-OUT OR DECEMBER 31, 2013.

2. PREPARE FOR THESE CHANGES WHICH ARE EFFECTIVE FOR THE FIRST **PLAN YEAR BEGINNING AFTER SEPTEMBER 22, 2010:**

A. *ELIMINATE ANY **LIFETIME COVERAGE MAXIMUM** ON ESSENTIAL BENEFITS.*

B. *ELIMINATE ANNUAL COVERAGE MAXIMUMS (EXCEPT THOSE "RESTRICTED MAXIMUMS" PERMITTED IN HHS REGULATIONS) ON ESSENTIAL BENEFITS. (NOTE THAT INSURED, GRANDFATHERED, NON-ERISA PLANS MAY BE ABLE TO MAINTAIN ANNUAL LIMITS UNTIL 2014. THE STATUTORY LANGUAGE IS QUITE AMBIGUOUS ON THESE POINTS, AND WILL REQUIRE CLARIFICATION.)*

C. *ELIMINATE ANY ABILITY TO **RESCIND** COVERAGE (EXCEPT FOR FRAUD OR INTENTIONAL MISREPRESENTATION).*

D. *ELIMINATE ANY **PRE-EXISTING CONDITION LIMITATION** FOR CHILDREN UNDER AGE 19. (NOTE THE NEED TO PICK-UP PREVIOUSLY EXCLUDED CHILDREN.)*

E. *PROVIDE FOR CONTINUED COVERAGE FOR MARRIED AND UNMARRIED **CHILDREN UNDER AGE 26**. GRANDFATHERED PLANS MAY REFUSE THIS CONTINUED COVERAGE, UNTIL 2014, TO CHILDREN WITH OTHER EMPLOYMENT-BASED COVERAGE AVAILABLE TO THEM.*

*FORTUNATELY, THE INTERNAL REVENUE CODE WAS AMENDED TO MAKE BENEFITS UNDER THIS CONTINUED COVERAGE NON-TAXABLE, AND THE JOINT COMMITTEE REPORT STATES THAT THE VALUE OF THIS CONTINUED COVERAGE IS NON-TAXABLE.*

*(NOTE THAT PREVIOUSLY AGED-OUT CHILDREN MAY RE-ENTER THE PLAN.)*

F. *UNLESS A GRANDFATHERED PLAN, NO COST SHARING PERMITTED FOR **PREVENTIVE CARE**.*

G. *UNLESS A GRANDFATHERED PLAN, **INSURED PLANS SUBJECT TO THE 105(H) NONDISCRIMINATION RULES** FORMERLY APPLICABLE ONLY TO SELF-FUNDED PLANS.*

**H. UNLESS A GRANDFATHERED PLAN, PARTICIPANTS PERMITTED TO SELECT ANY PRIMARY CARE PROVIDER THAT WILL ACCEPT THEM.**

**I. UNLESS A GRANDFATHERED PLAN, CHILDREN MUST BE PERMITTED TO SELECT A PEDIATRICIAN AS THEIR PRIMARY CARE PROVIDER.**

**J. UNLESS A GRANDFATHERED PLAN, REQUIRED ACCESS TO EMERGENCY SERVICES WITHOUT PREAUTHORIZATION OR REFERRAL.**

**K. UNLESS A GRANDFATHERED PLAN, REQUIRED ACCESS TO OB/GYN SERVICES WITHOUT PREAUTHORIZATION OR REFERRAL.**

**L. UNLESS A GRANDFATHERED PLAN, INTERNAL AND EXTERNAL APPEALS RIGHTS MUST BE PROVIDED.**

**M. "SIMPLE" CAFETERIA PLANS AVAILABLE TO "QUALIFYING SMALL EMPLOYERS" (DEFINED AS EMPLOYERS AVERAGING 100 OR FEWER EMPLOYEES DURING EITHER OF THEIR TWO PRECEDING YEARS). THESE PLANS ARE "SIMPLE" BECAUSE THEY ARE EXEMPT FROM THE SECTION 125 NONDISCRIMINATION RULES IF THEY SATISFY CERTAIN ELIGIBILITY REQUIREMENTS (AVAILABLE TO ALL EMPLOYEES EXCEPT THOSE UNDER 21, THOSE WITH FEWER THAN 1000 HOURS IN THE PRIOR YEAR, THOSE WITH LESS THAN ONE YEAR OF SERVICE DURING ANY DAY IN THE PLAN YEAR, UNION EMPLOYEES AND CERTAIN NON-RESIDENT ALIENS, AND ALL ELIGIBLE EMPLOYEES MAY ELECT ALL BENEFITS OFFERED UNDER THE PLAN), AND CONTRIBUTION REQUIREMENTS (EMPLOYER CONTRIBUTIONS FOR EACH NHCE/NON-KEY OF AT LEAST 2% OF COMPENSATION, OR OF AT LEAST THE LESSER OF 100% OF EMPLOYEE'S SALARY REDUCTION OR 6% OF COMPENSATION).**

**N. IF A "QUALIFIED SMALL EMPLOYER" (THAT IS, AN EMPLOYER WITH FEWER THAN 26 FTE'S AND AVERAGE WAGES OF \$50,000 OR LESS), DETERMINE WHETHER THE NEW TAX CREDIT FOR EMPLOYER COSTS FOR "QUALIFYING HEALTH COVERAGE" IS AVAILABLE. NOTE THAT THE CREDIT BEGINS TO PHASE OUT FOR QSE'S WITH WAGES AVERAGING MORE THAN \$25,000 (INDEXED) AND/OR MORE THAN 10 EMPLOYEES. QUALIFYING HEALTH COVERAGE IN 2010, 2011, 2012 AND 2013 IS COVERAGE FROM A LICENSED CARRIER. QUALIFYING HEALTH COVERAGE IN LATER YEARS IS COVERAGE THROUGH AN EXCHANGE. AFTER 2013, THE CREDIT IS AVAILABLE FOR NO MORE THAN TWO CONSECUTIVE YEARS.**

**NON-EMPLOYER ITEMS OF INTEREST FOR 2010**

**CHANGES FOR INDIVIDUALS:**

1. THE MEDICAL COST TAX DEDUCTION NOW REQUIRES MEDICAL EXPENSES EXCEEDING **10% OF AGI** (RATHER THAN 7.5% AS BEFORE THE LAW), WITH A TRANSITION PERIOD FOR INDIVIDUALS 65 AND OVER.

2. \$250 REBATE FOR MEDICARE PART D BENEFICIARIES WHO REACH THE DONUT HOLE (AND THE BEGINNING OF THE PHASE-OUT OF THE DONUT HOLE BY 2020).

**A CHANGE FOR CARRIERS:**

INSURERS MUST BEGIN TO **REPORT MEDICAL LOSS RATIOS** TO HHS, AND MUST REBATE PREMIUMS TO INSURED IF LOSS RATIO IS NOT AT LEAST 85% (80% FOR INDIVIDUALS AND SMALL GROUPS).

**2011 ITEMS**

1, MONITOR HHS REGULATIONS, TO BE ISSUED NO LATER THAN MARCH 23, 2011, SPECIFYING RULES FOR THE EMPLOYER'S OBLIGATION, BEGINNING IN 2012, TO PROVIDE EMPLOYEES WITH REQUIRED **"UNIFORM EXPLANATIONS OF COVERAGE."** REGULATIONS WILL INCLUDE A SAMPLE UEC.

NOTE THAT THE REQUIRED **UEC'S** ARE IN ADDITION TO ALREADY REQUIRED SPD'S AND SMM'S, CANNOT EXCEED FOUR PAGES, MUST INCLUDE THE KEY ELEMENTS OF THE PLAN COVERAGE, MUST BE IN AT LEAST 12 POINT FONT, AND MUST BE "LINGUISTICALLY AND CULTURALLY APPROPRIATE."

2. **OVER THE COUNTER DRUGS** NOT REIMBURSABLE FROM HEALTH FLEXIBLE SPENDING ACCOUNTS, HEALTH REIMBURSEMENT ARRANGEMENTS, AND TAX-FREE FROM HEALTH SAVINGS ACCOUNTS, UNLESS PER A PRESCRIPTION.

3. TAX PENALTY FOR EARLY **WITHDRAWALS FROM HSA'S** FOR NON-HEALTH EXPENSES INCREASED TO 20% (FROM CURRENT 10%).

4. CONSIDER WHETHER TO PERMIT PAYROLL DEDUCTIONS/AUTO ENROLL FOR NEW FEDERAL GOVERNMENT **"CLASS" LONG TERM CARE PROGRAM.**

**NON-EMPLOYER ITEMS OF INTEREST FOR 2011**

DRUG MANUFACTURERS MUST DISCOUNT BY 50% BRAND NAME DRUGS IN THE DONUT HOLE.

**2012 ITEMS**

1. BY JANUARY 31, 2012, ISSUE A **2011 FORM W-2 THAT INCLUDES THE VALUE OF ANY EMPLOYER-PROVIDED HEALTH COVERAGE**

(NOTE THAT THIS GENERALLY IS FOR INFORMATIONAL PURPOSES ONLY, BECAUSE THE VALUE OF THAT COVERAGE WOULD RESULT IN TAXATION ONLY IF IT IS PROVIDED UNDER A PLAN THAT VIOLATES THE APPLICABLE, EXPANDED NON-DISCRIMINATION RULES OR IS PROVIDED TO A NON-DEPENDENT OTHER THAN A CHILD UNDER 26 ENTITLED TO CONTINUED COVERAGE UNDER THE LAW.)

2. PROVIDE **UNIFORM EXPLANATIONS OF COVERAGE** PER HHS REGULATIONS NO LATER THAN MARCH 23, 2012. UEC'S MUST BE DISTRIBUTED AT ENROLLMENT AND ANNUALLY.

3. EFFECTIVE MARCH 23, 2012, ON-GOING COMPLIANCE WITH THE NEW RULE REQUIRING **NOTICE TO EMPLOYEES OF "MATERIAL CHANGES"** IN HEALTH COVERAGE NO LATER THAN 60 DAYS BEFORE THE CHANGE BECOMES EFFECTIVE.

4. FOR PLAN YEARS ENDING AFTER SEPTEMBER 30, 2012, PAY THE REQUIRED **FEE OF \$1** TIMES AVERAGE NUMBER OF COVERED LIVES, FOR COMPARATIVE EFFECTIVENESS RESEARCH, IMPOSED ON PLANS AND CARRIERS.

**2013 ITEMS**

1. IMPLEMENT, EFFECTIVE JANUARY 1, 2013, **\$2500 CAP** (INDEXED) ON SALARY REDUCTION CONTRIBUTIONS TO HFSA'S.
  
2. COLLECT EMPLOYEE **MEDICARE TAX AT RATE OF 2.35%** (NO LONGER 1.45%) ON MEDICARE WAGES OVER \$250,000 FOR JOINT FILERS AND OVER \$200,000 FOR OTHERS. (ALSO, NEW MEDICARE TAX OF 3.8% ON SAME TAXPAYERS' NET INVESTMENT INCOME.)
  
3. CEASE EMPLOYER **DEDUCTION FOR PROVIDING RETIREE COVERAGE** EQUIVALENT TO MEDICARE PART D.
  
4. FOR PLAN YEARS ENDING AFTER SEPTEMBER 30, 2013, THE 2012 **\$1 FEE NOTED ABOVE INCREASES TO \$2.**
  
5. MONITOR HHS REGULATIONS TO BE ISSUED NO LATER THAN MARCH 23, 2013 SPECIFYING RULES FOR **REQUIRED ANNUAL REPORTS TO EMPLOYEES AND HHS ON HEALTH PLAN BENEFITS THAT "IMPROVE HEALTH."**

**2014 ITEMS**

A. OFFER FREE CHOICE **VOUCHERS** TO ELIGIBLE EMPLOYEES WITH HOUSEHOLD AGI UNDER 400% OF POVERTY LEVEL WHOSE PLAN CONTRIBUTIONS ARE BETWEEN 8% AND 9.8% OF THEIR HOUSEHOLD AGI.

B. EFFECTIVE FOR PLAN YEARS BEGINNING ON OR AFTER JANUARY 1, 2014, ENSURE THAT THE PLAN HAS:

1. *NO WAITING PERIOD LONGER THAN 90 DAYS.*

2. *NO **PRE-EXISTING CONDITION LIMITATION** FOR ANY PARTICIPANT. PRE-EX'S FOR CHILDREN UNDER AGE 19 WERE PROHIBITED BEGINNING WITH PLAN YEARS BEGINNING AFTER SEPTEMBER 22, 2010. (NOTE NEED TO PICK-UP PREVIOUSLY EXCLUDED CHILDREN.)*

C. **REPORT MINIMUM ESSENTIAL COVERAGE INFORMATION** TO EMPLOYEES AND IRS, PER REGULATIONS.

D. EXCEPT FOR GRANDFATHERED PLANS, PROVIDE COVERAGE FOR ROUTINE COSTS RELATED TO **CLINICAL TRIALS**.

E. EXCEPT FOR GRANDFATHERED PLANS, NO **DISCRIMINATION AGAINST LICENSED PROVIDERS**.

F. EXCEPT FOR GRANDFATHERED PLANS, **OUT-OF-POCKET MAXIMUMS** THE SAME AS OOP LIMITS FOR HDHP'S.

G. EXCEPT FOR GRANDFATHERED PLANS, NO **DEDUCTIBLES** HIGHER THAN \$2,000 FOR SELF-ONLY COVERAGE AND \$4,000 FOR FAMILY COVERAGE.

H. WELLNESS REWARD/PENALTY LIMITS RAISED FROM 20% TO **30%** OF INDIVIDUAL ACTUAL COST (WITH REGULATORS' ABILITY TO RAISE TO AS HIGH AS 50%).

I. IF 200 OR MORE FTE'S, **AUTO ENROLL** EMPLOYEES IN HEALTH PLAN UNDER NEW AUTO ENROLLMENT RULES.

J. PROVIDE EMPLOYEES WITH REQUIRED **NOTICES CONCERNING EXCHANGES AND AVAILABLE SUBSIDIES**.

K. EMPLOYER THAT OFFERS COVERAGE THROUGH AN **EXCHANGE MAY PERMIT EMPLOYEE CONTRIBUTIONS** THROUGH SECTION 125 PLAN.

L. EFFECTIVE JANUARY 1, 2014, **EXCHANGES** BEGIN TO OPERATE FOR INDIVIDUALS AND SMALL EMPLOYERS (GENERALLY, THOSE 50 AND UNDER).

M. **PLAY OR PAY RULE** FOR APPLICABLE LARGE EMPLOYERS. ALE'S ARE THOSE EMPLOYERS, TESTED ON A CONTROLLED GROUP/AFFILIATED SERVICE GROUP BASIS, THAT EMPLOY AN AVERAGE OF MORE THAN 49 FTE'S (DEFINED AS EMPLOYEES AVERAGING 30 OR MORE HOURS PER WEEK), WITH PART-TIMERS COUNTED AS FRACTIONS, ON BUSINESS DAYS DURING THE PRIOR YEAR.

EMPLOYER MUST OFFER COVERAGE TO ALL FTE'S AND DEPENDENTS, OR OFFER MINIMUM ESSENTIAL COVERAGE THAT IS AFFORDABLE, OR OFFER MINIMUM ESSENTIAL COVERAGE WITH THE PLAN'S SHARE OF THE TOTAL ALLOWED COST BEING AT LEAST 60%, OR

EMPLOYER PAYS A PENALTY IF IT IMPOSES AN EXCESSIVE WAITING PERIOD OR IF ANY FTE WITH HOUSEHOLD AGI UNDER 400% OF THE FEDERAL POVERTY LIMIT IS CERTIFIED TO THE EMPLOYER AS HAVING PURCHASED COVERAGE THROUGH AN EXCHANGE WITH RESPECT TO WHICH A CREDIT OR COST-SHARING REDUCTION IS ALLOWED/PAID TO THE EMPLOYEE.

THE PENALTY EQUALS THE NUMBER OF FTE'S FOR THE MONTH, MINUS 30 (WITH ONE 30-FTE EXEMPTION AVAILABLE PER EMPLOYER GROUP) TIMES ONE-TWELFTH OF \$2000 (INDEXED).

NOTE THAT, IF AN ALE'S WORKFORCE EXCEEDS 50 FOR 120 DAYS OR FEWER DURING THE YEAR, AND THE EMPLOYEES CAUSING THE EXCESS OVER 50 ARE SEASONAL, IT IS NOT SUBJECT TO THIS PENALTY.

N. **PLAY AND PAY RULES** FOR ALE'S.

IF AN ALE MEETS THE REQUIRED COVERAGE REQUIREMENTS ABOVE, BUT ANY FTE IS CERTIFIED TO THE EMPLOYER AS HAVING PURCHASED COVERAGE THROUGH AN EXCHANGE WITH RESPECT TO WHICH A CREDIT OR COST-SHARING REDUCTION IS ALLOWED/PAID TO THE EMPLOYEE, THE ALE PAYS A PENALTY EQUAL TO THE NUMBER OF FTE'S ACTUALLY RECEIVING THE CREDIT OR COST-SHARING REDUCTION TIMES ONE-TWELFTH OF \$3000, INDEXED (BUT NOT TO EXCEED THE NUMBER OF THE EMPLOYER'S FTE'S, MINUS 30, TIMES ONE-TWELFTH OF \$2000, INDEXED).

IF AN ALE OFFERS MINIMUM ESSENTIAL COVERAGE THAT REQUIRES AN EMPLOYEE CONTRIBUTION OF MORE THAN 9.5% OF THE PARTICULAR EMPLOYEE'S HOUSEHOLD AGI (SO-CALLED "UNAFFORDABLE" COVERAGE), OR PROVIDES A PLAN THAT DOES NOT MEET THE 60% COST-SHARING REQUIREMENT, ITS EMPLOYEES WHO OPT-OUT OF EMPLOYER PLAN COVERAGE AND PURCHASE COVERAGE THROUGH AN EXCHANGE BECOME ELIGIBLE FOR THE CREDIT AND COST-SHARING REDUCTION. IN SUCH A CASE, THE ASE PAYS A PENALTY EQUAL TO THE NUMBER OF FTE'S ACTUALLY RECEIVING THE CREDIT OR COST-SHARING REDUCTION TIMES ONE-TWELFTH OF \$3000, INDEXED (BUT NOT TO EXCEED THE NUMBER OF THE EMPLOYER'S FTE'S, MINUS 30, TIMES ONE-TWELFTH OF \$2000, INDEXED).

O. **INSURED, GRANDFATHERED, NON-ERISA PLANS** MAY NO LONGER HAVE **ANNUAL MAXIMUMS** ON ESSENTIAL BENEFITS. (NOTE THAT AMBIGUITY SURROUNDING THIS RULE REQUIRES CLARIFICATION.)

**P. GRANDFATHERED PLANS MUST BEGIN COVERAGE FOR MARRIED AND UNMARRIED CHILDREN UNDER AGE 26 EVEN IF OTHER EMPLOYMENT-BASED COVERAGE IS AVAILABLE TO THEM.**

**NON-EMPLOYER ITEMS OF INTEREST FOR 2014**

U.S. CITIZENS AND LEGAL RESIDENTS NOT CARRYING "QUALIFYING COVERAGE" PAY **MANDATE** PENALTY EQUAL TO GREATER OF 2.5% OF HOUSEHOLD INCOME EXCEEDING TAX FILING LIMIT (PHASED-IN AT 1% FOR 2014 AND 2% FOR 2015), OR \$695 (PHASED-IN AT \$95 FOR 2014 AND \$325 FOR 2015).

THE PENALTY FOR UNCOVERED DEPENDENTS UNDER AGE 18 IS ONE-HALF THIS AMOUNT.

THE TOTAL HOUSEHOLD PENALTY WILL NOT EXCEED THE LESSER OF THREE TIMES THE ADULT PENALTY – I.E., \$2085 IN 2016 – OR THE NATIONAL AVERAGE ANNUAL BRONZE LEVEL EXCHANGE PREMIUM FOR THE PARTICULAR HOUSEHOLD IN QUESTION.

COVERAGE UNDER AN EMPLOYER PLAN, A GOVERNMENT PROGRAM, A GRANDFATHERED PLAN, AN ELIGIBLE INDIVIDUAL CONTRACT OR AN HHS/TREASURY-APPROVED PLAN CONSTITUTES QUALIFYING COVERAGE.

INDIVIDUALS ARE EXEMPT FROM THESE PENALTIES IF ANY REQUIRED EMPLOYEE CONTRIBUTION TO THE INDIVIDUAL'S EMPLOYER'S PLAN, OR THE LOWEST COST BRONZE EXCHANGE PLAN AVAILABLE TO THE INDIVIDUAL, EXCEEDS 8% OF THE INDIVIDUAL'S HOUSEHOLD INCOME (WITH POST-2014 ADJUSTMENTS TO THE 8% FIGURE BASED ON THE AMOUNT BY WHICH HEALTH PREMIUM GROWTH EXCEEDS INCOME GROWTH).

**2016 ITEMS**

EFFECTIVE JANUARY 1, 2016, **EXCHANGES** BEGIN TO OPERATE FOR EMPLOYERS WITH **100 AND FEWER** EMPLOYEES.

**2017 ITEMS**

EFFECTIVE JANUARY 1, 2017, STATES MAY PERMIT **EXCHANGES** TO BEGIN TO OPERATE **FOR ALL SIZE EMPLOYERS**.

**2018 ITEMS**

IF APPLICABLE, PAY EXCISE TAX ON "**CADILLAC**" PLANS – THAT IS, EMPLOYER-SPONSORED PLANS WITH COVERAGE VALUED BEYOND THE "THRESHOLD AMOUNT" OF \$10,200 FOR SELF-ONLY COVERAGE AND \$27,500 FOR FAMILY COVERAGE (ADJUSTED FOR AGE AND GENDER, INDEXED IN 2018 TO ACCOUNT FOR GREATER-THAN-EXPECTED HEALTH CARE COST GROWTH BEFORE 2018, AND INDEXED FOR INFLATION BEGINNING IN 2010).

THE EXCISE TAX IS 40% OF THE VALUE OF THE COVERAGE EXCEEDING THE THRESHOLD AMOUNT DESCRIBED ABOVE.

NOTE THAT STAND-ALONE VISION AND DENTAL PLANS ARE EXCLUDED FROM THE CALCULATION ABOVE.

**2020 ITEMS**

THE **\$2 FEE** PER AVERAGE NUMBER OF COVERED LIVES THAT IS DESCRIBED ABOVE NO LONGER APPLIES.