Timeline

- Revenue (PCORI)
- Public Marketplace Opens
- Subsidies
- Medicaid Expansion
- Individual Mandate
- Transitional Reinsurance Fee

- Large Employer Mandate
- Revenue (Transitional Reinsurance)
- Ongoing Reporting
- Nondiscrimination (?)

- Midsize Employer Mandate
  - §6055 & §6056 Reporting

- Cadillac Tax

- Public marketplace open to large employers
- New SBC template

2016 Watch List

- 2015 retro permanent parity for transportation benefits
- Employer mandate
- Affordability calculations
- Expanded definition of small employer
- 6055/6056 health plan reporting
  - 2015: Gather data
  - 2016: Report
- 2016 embedded OOP limit (non-GF)
  - Individual maximum limit of $6,850 if family limit higher
- Section 1411 marketplace certifications
- Additions/changes to preventive care
  - Contraceptive coverage
- Marriage equality
- EEOC wellness guidance
- COBRA
- 2016 Marketplace open enrollment
- 2016 Presidential election
- 2017 new SBC template
- 2017 health insurer tax 1-year moratorium
- 2017 HRA integration changes
- 2020 Cadillac Tax guidance preview

Checking In...

- Auto enrollment – **repealed**!
- Nondiscrimination in fully insured plans – pending guidance
- Quality care reporting – pending guidance
- Transparency reporting requirement – pending guidance
Just Say No

• Employer Payment Plans no longer allowed
  – Limited transition relief for small employers through June 30, 2015
  – May not reimburse for individual plans
  – May not directly pay for individual plans
  – May not allow pre-tax payment of individual coverage by employee
  – May not provide taxable compensation with requirement only to use for individual plans

• Non-integrated HRA or health care FSA not allowed
  – Unless restricted to excepted benefits or retiree-only

• Minimum Value Plans must have hospital coverage and physician services
  – Transition relief for employers and employees of pre-Nov. 4, 2014 plans with proper disclosure that employee not precluded from premium tax credit

Small Employers

• For 2016, ACA set small employer definition to 1-100 full-time employees
  – New! PACE Act allows states to decide whether to expand small employer definition

• Key issues:
  – Plan years on or after January 1, 2016
  – Small employer non-grandfathered group plans must cover essential health benefits
  – Eligible for SHOP coverage
  – Who is a full-time employee

• Caution!
  – Small employers with at least 50 FTEs are still required to comply with the employer mandate and 6056 reporting as applicable large employer (ALE)
Preventive Care
(non-GF plans)

<table>
<thead>
<tr>
<th>Preventive Care Measure</th>
<th>Plan Year Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gestational diabetes screening in pregnant women</td>
<td>On or after January 1, 2015</td>
</tr>
<tr>
<td>Hepatitis B screening for adults and non-pregnant adolescents</td>
<td>On or after May 1, 2015</td>
</tr>
<tr>
<td>Contraception coverage</td>
<td>On or after July 10, 2015</td>
</tr>
<tr>
<td>• At least one form in each of 18 methods in the FDA Birth Control Guide</td>
<td></td>
</tr>
<tr>
<td>Preeclampsia prevention</td>
<td>On or after September 1, 2015</td>
</tr>
<tr>
<td>• Use of low-dose aspirin after 12 weeks in pregnant women with high risk</td>
<td></td>
</tr>
<tr>
<td>Colorectal cancer screening clarification</td>
<td>Clarification effective on or after October 23, 2015</td>
</tr>
<tr>
<td>• Pathology exam on polyp biopsy performed in connection with a preventive colonoscopy</td>
<td></td>
</tr>
<tr>
<td>• Pre-consultation with provider</td>
<td></td>
</tr>
<tr>
<td>BRCA testing and genetic counseling</td>
<td>Clarification effective on or after October 23, 2015</td>
</tr>
<tr>
<td>• Regardless of whether previously diagnosed with cancer, if have increased risk</td>
<td></td>
</tr>
</tbody>
</table>

Contraceptive Coverage

• Religious employers exempt (e.g. houses of worship)
• GF plans – no impact until lose GF status
• Accommodation for religiously-affiliated, non-profit employers (e.g. charities, schools, hospitals)
  – Four criteria to qualify
  – Carrier must provide if insured
  – TPA must arrange, if self-insured
• Accommodation extended to closely-held, for-profit employers
  – Not publicly traded
  – 50% ownership with 5 or fewer individuals
  – Board of Directors adopts resolution to exempt some or all contraceptive coverage due to sincere religious beliefs
  – Self-certify notice to HHS
• Final rules apply for plan years on or after September 14, 2015
SBC Changes

- Final regulations released
- “New” SBC template issued
  - Applies beginning on:
    - The first day of the first open enrollment period that starts on or after April 1, 2017
    - With respect to plan years that start on or after April 1, 2017
  - Shorter template
  - Adds questions about services (if any) covered before the deductible is met
  - Adds another coverage example, for a simple fracture
  - Deletes Questions and Answers About the Coverage Examples

2016 Limits

<table>
<thead>
<tr>
<th>Category</th>
<th>2015</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Out-of-Pocket (OOP) Maximum</td>
<td>$6,600 / $13,200</td>
<td>$6,850 / $13,700</td>
</tr>
<tr>
<td>(single/family)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FSA Maximum</td>
<td>$2,550</td>
<td>$2,550</td>
</tr>
<tr>
<td>Qualified HSA HDHP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum deductible</td>
<td>$1,300 / $2,600</td>
<td>$1,300 / $2,600</td>
</tr>
<tr>
<td>Maximum OOP</td>
<td>$6,450 / $12,900</td>
<td>$6,550 / $13,100</td>
</tr>
<tr>
<td>Maximum HSA contribution</td>
<td>$3,350 / $6,650</td>
<td>$3,350 / $6,750</td>
</tr>
<tr>
<td>Catch-up HSA contribution</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Transit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mass transit/van pooling</td>
<td>$130 per month</td>
<td>$255</td>
</tr>
<tr>
<td>Parking</td>
<td>$250 per month</td>
<td>$255</td>
</tr>
<tr>
<td>Bicycle commuter</td>
<td>$20 per month</td>
<td>$20 per month</td>
</tr>
</tbody>
</table>
New! Embedded Out-of-Pocket Limit

If family deductible or out-of-pocket (OOP) limit exceeds $6,850 …

Then plan must adopt an embedded self-only OOP limit of no more than $6,850

• Effective 1/1/2016
• Applies to all non-grandfathered plans (both self-funded and fully-insured)
• HDHP limits consideration

New! Embedded Out-of-Pocket Limit

Johnson family’s plan has a $13,000 out-of-pocket (OOP) maximum

<table>
<thead>
<tr>
<th>Covered Family Members</th>
<th>James</th>
<th>Jenny</th>
<th>Susie</th>
<th>Matt</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual Plan Limits</td>
<td>$6,850</td>
<td>$6,850</td>
<td>$6,850</td>
<td>$6,850</td>
</tr>
<tr>
<td>Medical Expenses Incurred</td>
<td>$10,000</td>
<td>$3,000</td>
<td>$3,000</td>
<td>$3,000</td>
</tr>
<tr>
<td>OOP Balance</td>
<td>($3,150)</td>
<td>$3,850</td>
<td>$3,850</td>
<td>$3,850</td>
</tr>
<tr>
<td>Amount Paid by Plan</td>
<td>$3,150</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Family $13,000 Plan Limit Applied</th>
<th>Family OOP Balance</th>
<th>Amount Paid by Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>James’ OOP Cost Share</td>
<td>$10,000</td>
<td>$6,850</td>
</tr>
<tr>
<td>Jenny’s OOP Cost Share</td>
<td>$3,000</td>
<td>$9,850</td>
</tr>
<tr>
<td>Susie’s OOP Cost Share</td>
<td>$3,000</td>
<td>$12,850</td>
</tr>
<tr>
<td>Matt’s OOP Cost Share</td>
<td>$3,000</td>
<td>$13,000 ($2,850)</td>
</tr>
</tbody>
</table>
### Transitional Reinsurance 2.0

<table>
<thead>
<tr>
<th>Activity</th>
<th>Due No Later Than</th>
<th>Amount Due*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submit annual report and schedule payment</td>
<td>November 16, 2015**</td>
<td>N/A</td>
</tr>
<tr>
<td>Combined Payment</td>
<td>January 15, 2016</td>
<td>$44 per covered life</td>
</tr>
<tr>
<td>1st Payment</td>
<td>January 15, 2016</td>
<td>$33 per covered life</td>
</tr>
<tr>
<td>2nd Payment</td>
<td>November 15, 2016</td>
<td>$11 per covered life</td>
</tr>
</tbody>
</table>

*27 in 2016  
**Since November 15, 2015 is a Sunday

### Employer Mandate

- **Do you have at least 50 FT and FTE employees?**
  - NO: No penalty applies!
  - YES: If at least one FT employee receives premium assistance:
    - 2015: $2,080 x (total # of FTs – 80) for employers with 100+ FT and FTE employees only
    - 2016: $2,160 x (total # of FTs – 30)

- **Is coverage offered to FT employees at required percentages?**
  - NO: Lesser of:
    - 2015: $3,120 for each FT receiving tax credit OR $2,080 x (# of FTs – 80 for 2015)
    - 2016: $3,240 for each FT receiving tax credit OR $2,160 x (# of FTs – 30)
  - YES: No penalty applies!
Employer Mandate for 2016

Subject to Employer Mandate

<table>
<thead>
<tr>
<th>Employer Type</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large employer (100+), calendar year plan</td>
<td>January 1, 2015</td>
</tr>
<tr>
<td>Large employer (100+), non-calendar year plan</td>
<td>Start of plan year in 2015*</td>
</tr>
<tr>
<td>Mid-size employer (50-99)</td>
<td>Delayed until January 1, 2016 or start of plan year in 2016*</td>
</tr>
<tr>
<td>Small employer (&lt;50)</td>
<td>Still not subject</td>
</tr>
</tbody>
</table>

*If met transition relief

Employer Mandate for 2016

- Must offer coverage to **95%** of full-time employees and dependent children (previously 70%)
- Reduce penalty by first **30** full-time employees (previously 80)
- Use prior 12-month calendar year (previously 6 months) to determine large employer status (50 FTEs)
Affordability

- **New!** Indexed affordability safe harbor %
  - 2014: 9.5%
  - 2015: 9.56%
  - 2016: 9.66%
- HRA contributions:
  - **IF** integrated HRA can be used to pay employer plan premiums or premiums plus cost sharing and health expenses, **THEN** HRA contributions may reduce employee’s contribution when determining affordability.

Affordability – Flex Credits

- May reduce employee contribution if:
  1) Employee can’t cash out credits;
  2) Employee may use credits to pay for MEC; and
  3) Employee may use only for medical expenses under Code Section 213
- May not reduce employee contribution if:
  1) Employee may use credits for non-healthcare benefits (life, disability, dependent care); or
  2) Employee may use credits for healthcare and cash out remaining credits
- Transition relief available
  - Effective plan years beginning on or after Jan. 1, 2017 unless:
    • Newly adopted after Dec. 16, 2015; or
    • Flex credits substantially increased after Dec. 16, 2015
Affordability – Opt-Out Bonus

- Opt-out bonus increases employee contribution even if don’t elect to opt-out of health coverage
  - Employee must “forgo” the extra compensation
- Example:
  - Cost of self-only coverage = $200 (pre-tax)
  - Opt-out bonus if waive coverage = $100 (taxable)
  - Total employee contribution for self-only coverage = $300

Employer Mandate for 2016

Tips and Reminders:
- Special rules for changes in employment status
- Breaks in service
- Special unpaid leave
- Workers compensation leave
- Changes in plan year
- Watch your eligibility language
- Collective bargaining agreements
- Annual opportunity to accept or waive coverage
The Marketplace

- 11.7 million individuals enrolled through the Marketplaces in 2015
  - 85% eligible for premium assistance
  - 8.9 million enrolled for 2016 (as of January 23)
- Uninsured rate drops by 35% nationwide
- Silver level plans most popular
- 2016 open enrollment close January 31, 2016

Coverage Verification

- Insurer/Employer
  - Offers coverage
  - Reports offer and coverage
  - Notifies of penalty
  - Requests verification (§1411)
- IRS
  - Verifies:
    1. Meets individual mandate
    2. Employee qualifies for subsidy
    3. Employee owes penalty
  - Reports subsidy
- Employee
  - Applies for coverage and/or subsidy
  - Files Form 1040
    - Report coverage
    - Claim exemption
    - Make penalty payment
    - Repay ineligible subsidy
    - Take tax credit
  - Reports coverage
- Marketplace
  - Provides advance subsidy or denies subsidy
  - Reports subsidy
## 2016 Increased Individual Penalties

<table>
<thead>
<tr>
<th>Individual Mandate Penalties by Tax Year</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jim (Earns $40k/yr)</td>
<td>$299</td>
<td>$594*</td>
<td>$736*</td>
</tr>
<tr>
<td>Eduardo &amp; Julia (Earn $70k/yr)</td>
<td>$497</td>
<td>$988*</td>
<td>$2,085*</td>
</tr>
</tbody>
</table>

*Estimate

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## Tax Forms

**Form 1040**

- Department of the Treasury—Internal Revenue Service
- U.S. Individual Income Tax Return

**Form 8962**

- Department of the Treasury—Internal Revenue Service
- Premium Tax Credit (PTC)

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Let the Marketplace Certifications Begin!

- State and Federal Marketplaces notify employer of employee gaining coverage with premium assistance
- Employer may appeal within 90 days
- Appeal decided by marketplace within 90 days
  - If no appeal or appeal not granted, notice sent to IRS
  - If appeal granted, employee loses subsidy and must repay IRS
- Employer still has another opportunity to appeal any employer mandate penalty
  - After the due date for employees to file their tax returns and after the 6056 reporting for that calendar year

HRA Integration

- Must be enrolled in both the HRA and the major medical plan
- If spouse and dependents not enrolled in medical plan, should not reimburse claims under HRA
- Penalty = $36,500 per year per affected individual
- Transition allowed until plan year starting on or after January 1, 2017
HRA – Individual Dental or Vision

- Reimburses or pays directly for individual dental or vision premiums only
- Does not need to meet ACA annual dollar limits or preventive services requirement
- Still may not reimburse or pay for individual medical premiums

Employer Reporting

Minimum Essential Coverage §6055
- Self-funded only
- All size employers

Applicable Large Employer §6056
- ≥ 50 FTEs
- Fully-insured and self-funded
Reporting by Health Insurance Carriers

To Enrolled Employees

Individualized Statement
Form 1095-B

March 31, 2016

To IRS

Transmittal Report
Form 1094-B

May 31, 2016
(June 30, 2016 if e-file)

Each Employee Statement
Forms 1095-B

May 31, 2016
(June 30, 2016 if e-file)

Applicable Large Employer Reporting

To Full-Time Employees

Individualized Statement
Form 1095-C

March 31, 2016

To IRS

Transmittal Report
Form 1094-C

May 31, 2016
(June 30, 2016 if e-file)

Each Employee Statement
Forms 1095-C

May 31, 2016
(June 30, 2016 if e-file)

Each member of controlled group reports separately
Distribution & Penalties

- Employers that file at least 250 Forms 1095-B or 1095-C in a calendar year are required to file electronically with IRS.
- Employee Statements
  - Mail
  - Electronically (if employee has consented to electronic)
  - Posting to a website (if employee consents and employer must separately notify employee)
  - Employee can also request a paper copy
- Penalties
  - $250 per return with a maximum of $3,000,000 for a calendar year
  - Good faith attempt for 2015

Employee Communications

- What are the forms?
- When will they receive the forms?
- Who will provide the forms?
- Why is some of the form blank?
- What should be done with the form?
- Not enrolled in the plan but still got a form?
Excise Tax - 2018

COBRA Rate ≥ $10,200 for self-only or $27,500 for family (other than self-only)

Special Provisions
- High risk professions
- Early retirees
- Age & gender

= 40% of plan value that exceeds threshold

“Cadillac” Excise Tax

- Will affect all employer plans
  - Grandfathered/Non-GF
  - All sizes
  - Fully-insured and self-insured
  - No exception for church plans or public entities
- Include total employer/employee contribution
- Includes medical, HRA, HSA (ER+pre-tax EE probably), FSA (ER+pre-tax EE probably)
- Excludes dental, vision, EAP (if excepted benefits)
- **Now tax deductible**
- Not adjusted for geography
  - Threshold increases for age, gender
  - Threshold increases for retirees (55+) and high-risk professions (if majority)
- 2018 threshold may increase
  - CPI plus 1% in 2019
  - CPI in 2020 and beyond
Thank you!