

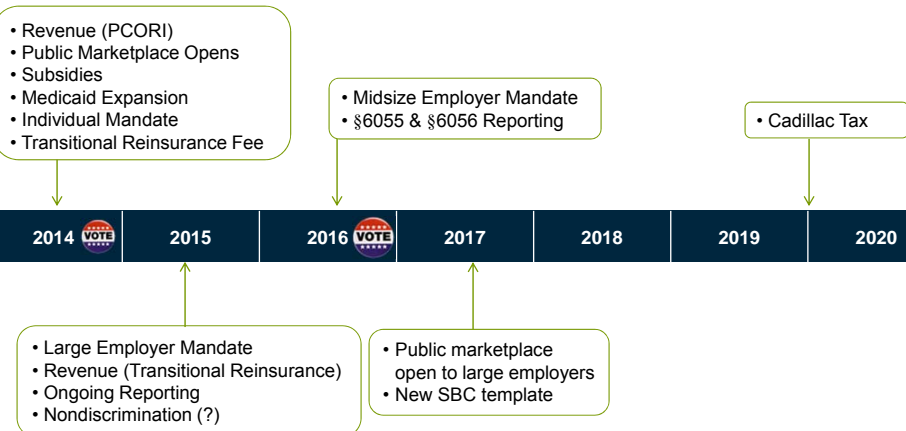


Conquering Compliance Issues UAHU 2016 Sales Congress

Debra A. Davis, JD, LL.M
Area Vice President, Compliance Counsel

© 2016 GALLAGHER BENEFIT SERVICES, INC.

Timeline



© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 2

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

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™

3

Checking In...

- Auto enrollment – **repealed!**
- Nondiscrimination in fully insured plans – pending guidance
- Quality care reporting – pending guidance
- Transparency reporting requirement – pending guidance



© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™

4

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 pretax 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



© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™

5

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)

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™

6


Preventive Care (non-GF plans)



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

© 2016 GALLAGHER BENEFIT SERVICES, INC. ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 7

Contraceptive Coverage

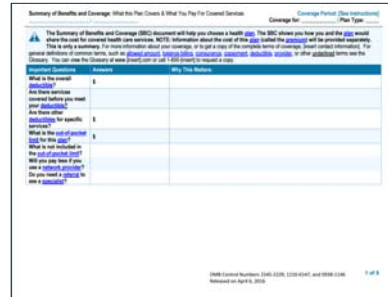


- Religious employers exempt (e.g. houses of worship)
- GF plans – no impact until lose GF status
- Accommodation for religiously-affiliated, non-profit employers (e.g. charities, schools, hospitals)
 - Four criteria to qualify
 - Carrier must provide if insured
 - TPA must arrange, if self-insured
- 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

© 2016 GALLAGHER BENEFIT SERVICES, INC. ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 8

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

| | 2015 | 2016 |
|---|--------------------|--------------------|
| Out-of-Pocket (OOP) Maximum (single/family) | \$6,600 / \$13,200 | \$6,850 / \$13,700 |
| FSA Maximum | \$2,550 | \$2,550 |
| Qualified HSA HDHP | | |
| Minimum deductible | \$1,300 / \$2,600 | \$1,300 / \$2,600 |
| Maximum OOP | \$6,450 / \$12,900 | \$6,550 / \$13,100 |
| Maximum HSA contribution | \$3,350 / \$6,650 | \$3,350 / \$6,750 |
| Catch-up HSA contribution | \$1,000 | \$1,000 |
| Transit | | |
| Mass transit/van pooling | \$130 per month | \$255 |
| Parking | \$250 per month | \$255 |
| Bicycle commuter | \$20 per month | \$20 per month |

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

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 11

New! Embedded Out-of-Pocket Limit

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

| Covered Family Members | James | Jenny | Susie | Matt |
|---------------------------|-----------|---------|---------|---------|
| Individual Plan Limits | \$6,850 | \$6,850 | \$6,850 | \$6,850 |
| Medical Expenses Incurred | \$10,000 | \$3,000 | \$3,000 | \$3,000 |
| OOP Balance | (\$3,150) | \$3,850 | \$3,850 | \$3,850 |
| Amount Paid by Plan | \$3,150 | \$0 | \$0 | \$0 |

| Family \$13,000 Plan Limit Applied | | Family OOP Balance | Amount Paid by Plan |
|------------------------------------|----------|-----------------------|---------------------|
| James' OOP Cost Share | \$10,000 | \$6,850 | \$3,150 |
| Jenny's OOP Cost Share | \$3,000 | \$9,850 | \$0 |
| Susie's OOP Cost Share | \$3,000 | \$12,850 | \$0 |
| Matt's OOP Cost Share | \$3,000 | \$13,000 (\$2,850) | \$2,850 |

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 12

Transitional Reinsurance 2.0

| Activity | Due No Later Than | Amount Due* |
|---|---------------------|---------------------------------|
| Submit annual report and schedule payment | November 16, 2015** | N/A |
| Combined Payment | January 15, 2016 | \$44 <i>per covered life</i> |
| 1st Payment | January 15, 2016 | \$33 <i>per covered life</i> |
| 2 nd Payment | November 15, 2016 | \$11 <i>per covered life</i> |

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

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 13

Employer Mandate

Do you have at least 50 FT and FTE employees? **NO** → No penalty applies!

YES

Is coverage offered to FT employees at required percentages?

2015: 70% for employers with 100+ FT and FTE employees

2016 and beyond: 95% for all applicable large employers

NO

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)

YES

Does plan have minimum value?

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

Is coverage affordable?

NO

YES

No penalty applies!

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 14

Employer Mandate for 2016

Subject to Employer Mandate

| | |
|--|---|
| Large employer (100+), calendar year plan | January 1, 2015 |
| Large employer (100+), non-calendar year plan | Start of plan year in 2015* |
| Mid-size employer (50-99) | Delayed until January 1, 2016 or start of plan year in 2016* |
| Small employer (<50) | Still not subject |

**If met transition relief*

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 15

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)



© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 16

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

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 17

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

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 18



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
- Transition relief: Opt-out bonus will not impact employee contributions for plan years beginning before Jan. 1, 2017, unless adopted after Dec. 16, 2015

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 19

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



© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 20



The Marketplace

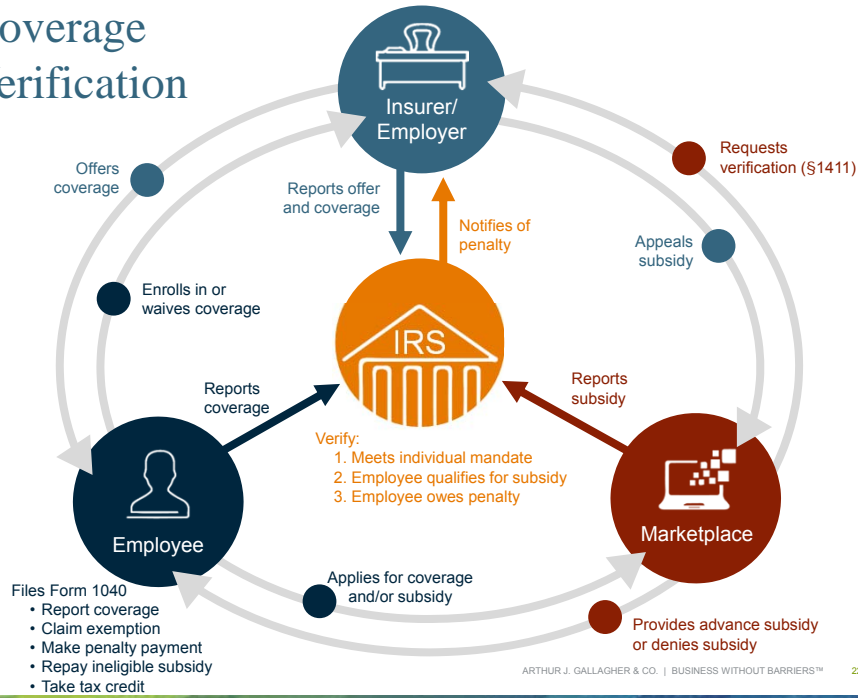
- 11.7 million individuals enrolled through the Marketplaces in 2015
 - 85% eligible for premium assistance
 - 8.9 million enrolled for 2016 (as of January 23)
- Uninsured rate drops by 35% nationwide
- Silver level plans most popular
- 2016 open enrollment close January 31, 2016



© 2016 GALLAGHER BENEFIT SERVICES, INC.



ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 21

Coverage Verification



ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 22

2016 Increased Individual Penalties

| Individual Mandate Penalties by Tax Year | 2014 | 2015 | 2016 |
|--|-------|--------|----------|
|  <p>Jim Earns \$40k/yr</p> | \$299 | \$594* | \$736* |
|  <p>Eduardo & Julia Earn \$70k/yr</p> | \$497 | \$988* | \$2,085* |

© 2016 GALLAGHER BENEFIT SERVICES, INC.

*Estimate

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 23

Tax Forms

Form **1040** Department of the Treasury—Internal Revenue Service (99) **2015** U.S. Individual Income Tax Return OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

| | | | |
|-------------|---|--|-----|
| Other Taxes | 57 | Self-employment tax. Attach Schedule SE | 57 |
| | 58 | Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919 | 58 |
| | 59 | Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required | 59 |
| | 60a | Household employment taxes from Schedule H | 60a |
| | 60b | First-time homebuyer credit repayment. Attach Form 5405 if required | 60b |
| | 61 | Health care: individual responsibility (see instructions) Full-year coverage <input type="checkbox"/> | 61 |
| | 62 | Taxes from: a <input type="checkbox"/> Form 8959 b <input type="checkbox"/> Form 8960 c <input type="checkbox"/> Instructions; enter code(s) | 62 |
| 63 | Add lines 56 through 62. This is your total tax | 63 | |

Form **8962** Department of the Treasury Internal Revenue Service **2015** Premium Tax Credit (PTC) OMB No. 1545-0074

► Attach to Form 1040, 1040A, or 1040NR. Information about Form 8962 and its separate instructions is at www.irs.gov/form8962. Attachment Sequence No. 73

Name shown on your return _____ Your social security number _____

You cannot claim the PTC if your filing status is married filing separately unless you are eligible for an exception (see instructions). If you qualify, check the box.

Part I Annual and Monthly Contribution Amount

| | | |
|----|---|----|
| 1 | Tax family size. Enter the number of exemptions from Form 1040 or Form 1040A, line 6d, or Form 1040NR, line 7d | 1 |
| 2a | Modified AGI. Enter your modified AGI (see instructions) | 2a |
| 2b | Enter the total of your dependents' modified AGI (see instructions) | 2b |
| 3 | Household Income. Add the amounts on lines 2a and 2b | 3 |
| 4 | Federal poverty line. Enter the federal poverty line amount from Table 1-1, 1-2, or 1-3 (see instructions). Check the appropriate box for the federal poverty table used. a <input type="checkbox"/> Alaska b <input type="checkbox"/> Hawaii c <input type="checkbox"/> Other 48 states and DC | 4 |

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 24

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



© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 25

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

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 26

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

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 27

Employer Reporting



Minimum Essential Coverage §6055

- Self-funded only
- All size employers



Applicable Large Employer §6056

- ≥ 50 FTEs
- Fully-insured and self-funded

© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 28



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



© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 31

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?




© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 32




Excise Tax - ~~2018~~ DELAYED until 2020



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

Excise Tax



= 40% of plan value that exceeds threshold

Special Provisions

- High risk professions
- Early retirees
- Age & gender

© 2016 GALLAGHER BENEFIT SERVICES, INC.
ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 33

“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

© 2016 GALLAGHER BENEFIT SERVICES, INC.
ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™ 34

Thank you!



© 2016 GALLAGHER BENEFIT SERVICES, INC.

ARTHUR J. GALLAGHER & CO. | BUSINESS WITHOUT BARRIERS™

