



# **Patient Protection & Affordable Care Act Update**

**Austin Chapter - Association of Financial Professionals**

**May 21, 2015**

**Bushnell & Company**  
Actuaries and Employee Benefit Consultants

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## **Jim's Working Title 1:**

# **ObamaCare: 5 Years Later & Where Are We?**

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## Jim's Working Title 2:

# ObamaCare 5 Years Later: How About Those State & Federal Exchanges!



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## Jim's Working Title 3:

# ObamaCare: 5 Years Later: I Love Government Regulation and Compliance!!!



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## Your Choice!



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## Two Laws

- H.R. 3590 - Patient Protection and Affordable Health Care Act of 2010 (PPACA)
- H.R. 4872 - Health Care and Education Reconciliation Act of 2010 (HCERA)
- Together = Health Care Reform (HCR)
- **President Obama signed March 23, 2010**

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## Long Time Coming ...



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## Red Sox Won 2013 World Series!!



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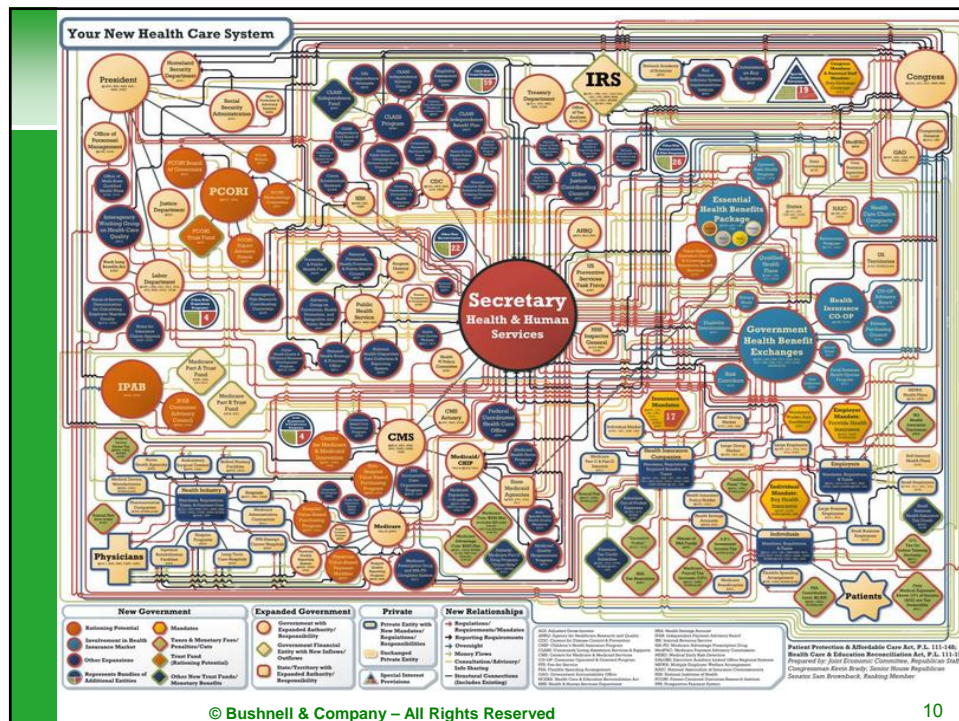
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## Who Won Super Bowl 2015?

- New England Patriots!!!
- Deflategate - Who Cares?
- Same day as Ground Hog Day!!
  - 6 more weeks of winter – Punxsutawney Phil – PA
  - 6 more weeks of winter – Gen. Beau Lee – GA
  - Spring here soon – Bob The Armadillo – TX

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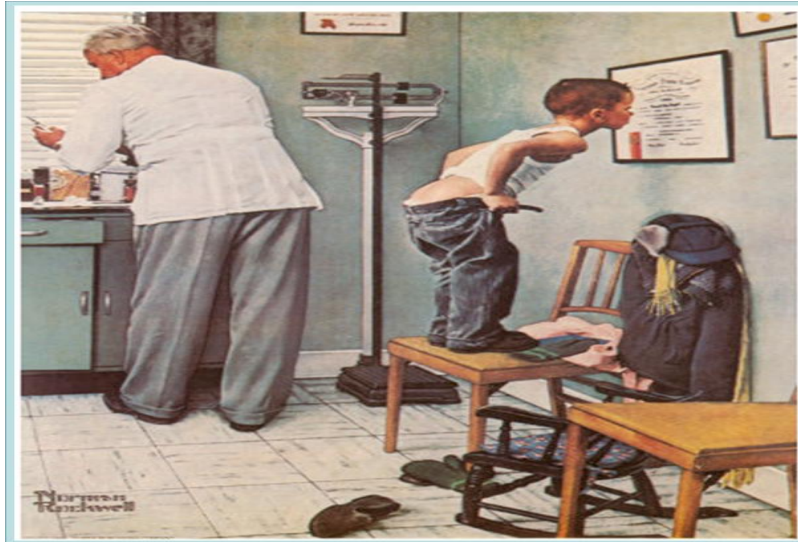
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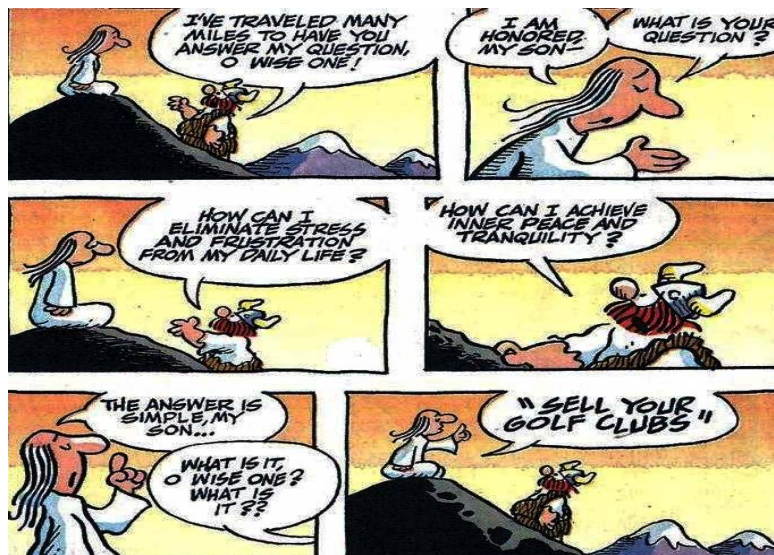
## Things Are Not the Same ...



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## ... But Maybe They Will Be.



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## What's Here Now...



- **Temporary High Risk Pool**
- **Dependents through age 26**
- **Tax credit for small employers < 25 EEs**
- **Early retiree re-insurance program**
- **Exchanges to start 1/1/14**
  - Website problems – Explain, Enroll, Pay, Ins. Co.
  - Enroll by 12/15/13 now 12/23/13 now 12/31/13; or  
Penalty in 2014 (maybe)
    - Coverage effective 1/1/14
  - Delayed enrollment until 3/31/14
    - Retroactive coverage to 1/1/14??

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## Plan years that begin on or after September 23, 2010



- **Many changes for fully insured and self-funded plans**
- **Distinctions between grandfathered and non-grandfathered health plans**

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## What's a Grandfathered Plan?

- Any group health plan or individual coverage existing on March 23, 2010.
- Interim Final Rule (“IFR”), published on June 14, 2010, lists changes that will cause **loss** of grandfathered status.
- Grandfathered status applies separately to each benefit package.

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## Grandfathered and Non-Grandfathered Plans

- No lifetime limits for “essential health benefits”
- No annual limits for “essential health benefits”  
(except as determined by HHS – \$750K < 9/23/11; \$1.25M < 9/23/12; \$2M < 9/23/13; None after 1/1/14)
- Pre-existing condition exclusions for children under 19 are eliminated
- Rescission prohibited, except for fraud or intentional misrepresentation
- Dependent coverage extended through age 26

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## Grandfathered and Non-Grandfathered Plans (cont'd)

- Health plans must report percentage of premium dollars for clinical services - **Medical Loss Ratios**
  - if less than 85% for large plans; or,
  - 80% for individual and small plans;
  - must provide rebates to consumers in 2011
- **Self-insured and self-funded plans are exempt**

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## Non-Grandfathered Plans

- IRC section 105(h) testing for both insured and self-funded plans – 4 tests
  - Benefits offered
  - Waiting period to enroll
  - Minimum hours required – 30 hrs./week
  - Employer contribution level
- Internal and external claims appeal process must be established
- Discrimination based on salary prohibited

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## **Non-Grandfathered Plans** (cont'd)

- **Emergency services must be covered at in-network cost-sharing, without prior authorization**
- **Individuals can designate primary care physician**
- **May not require authorization or referral for OB-GYN services**
- **First \$ coverage for evidence-based preventive care (e.g. well child care, immunizations, etc.)**

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## **Grandfathered Plans - Permissible Changes**

- **Addition of new employees and family members**
- **Changes, including increases, to employee premiums**
- **Changes required to comply with federal or state law**
- **Changes to voluntarily comply with PPACA**
- **Change of third-party administrator**

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## **Grandfathered Plans – Permissible Changes** (cont'd)



- HHS has requested comments on whether the following changes should impact “grandfathered” status:
  - Changes to plan structure, e.g., self-funded to fully insured
  - Changes to provider networks
  - Changes to prescription drug formularies

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## **Grandfathered Plans – Impermissible Changes**



- Change in insurance policy, certificate or contract of insurance, even if the insurance product was offered in the market prior to March 23, 2010.
- Elimination of benefits to diagnose or treat a condition

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## **Grandfathered Plans – Impermissible Changes** (cont'd)



- Increase in percentage cost-sharing requirement (coinsurance) by any amount above March 23, 2010 level
- Increase in deductible or out-of-pocket maximum by more than medical inflation, plus 15%

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## **Grandfathered Plans – Impermissible Changes** (cont'd)



- Increase in co-payment by more than \$5 (adjusted for medical inflation) or medical inflation plus 15%, whichever is greater
- Decrease in employer contribution rate for any tier of coverage by more than 5% below rate on March 23, 2010

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## **Grandfathered Plans - Impermissible Changes** (cont'd)



- **Changes in annual limits:**
  - If no previous limit, then cannot impose annual limit
  - If previous lifetime limit (but no annual limit), annual limit cannot be lower than lifetime limit
  - If previous annual limit, then cannot decrease annual limit

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## **Grandfathered Plans – Administrative Requirements**



- Plan must include a statement in plan materials delivered to participants that the insurer or plan “believes” that it is grandfathered under PPACA.
- Plan must also provide the plan administrator’s contact information, as well as contact information for the DOL (if ERISA plan) or HHS (if non-ERISA plan).
- IFR provides model language that can be used to satisfy disclosure requirement.

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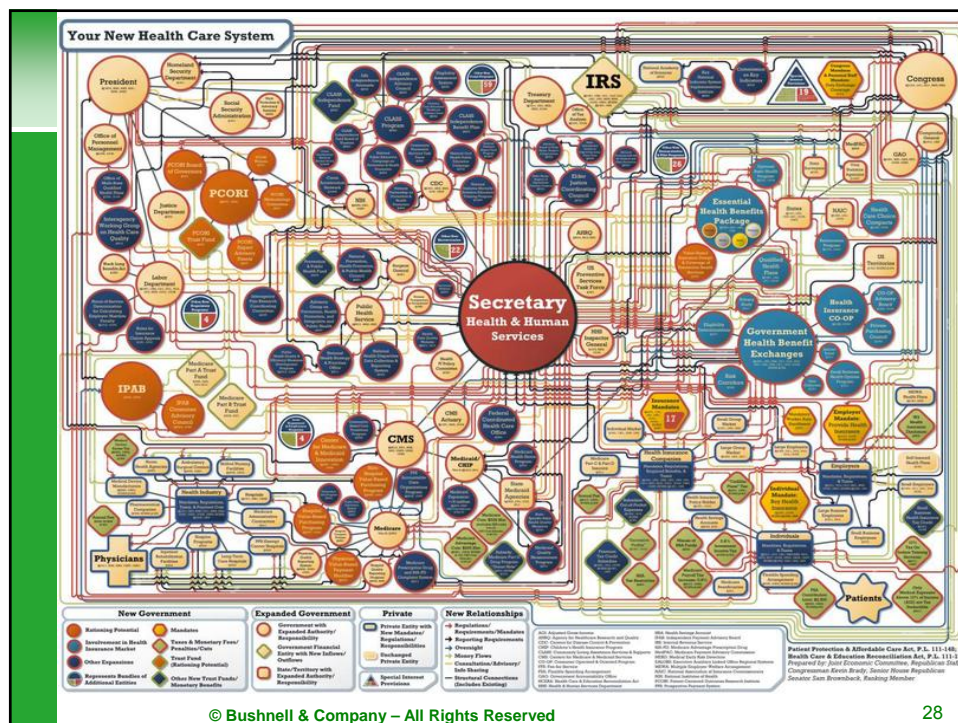
## Grandfathered Plans – Transition Rules

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- Changes made prior to March 23, 2010 will not affect grandfathered status.
- If plan changes were made after March 23, 2010 but before issuance of the IFR and “only modestly exceed” the limits set by the IFR, the agency will “take into account good-faith efforts to comply with a reasonable interpretation of [PPACA]” in deciding whether grandfathered status is affected.
- If more significant changes were adopted after March 23, 2010 but before issuance of IFR which exceed or contravene limits set in IFR, the insurer or plan can revoke the change by the first plan year on or after September 23, 2010 and not lose grandfathered status.

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## What Started on 1/1/2011

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- **OTC medications**
- **Increase HSA Distribution Penalties**
- **Simple Cafeteria Plans**
- **W-2 Reporting of Health Care Expenditures**
- **Wellness Programs**
- **Long-Term Care (CLASS)**

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## It Gets Better!!



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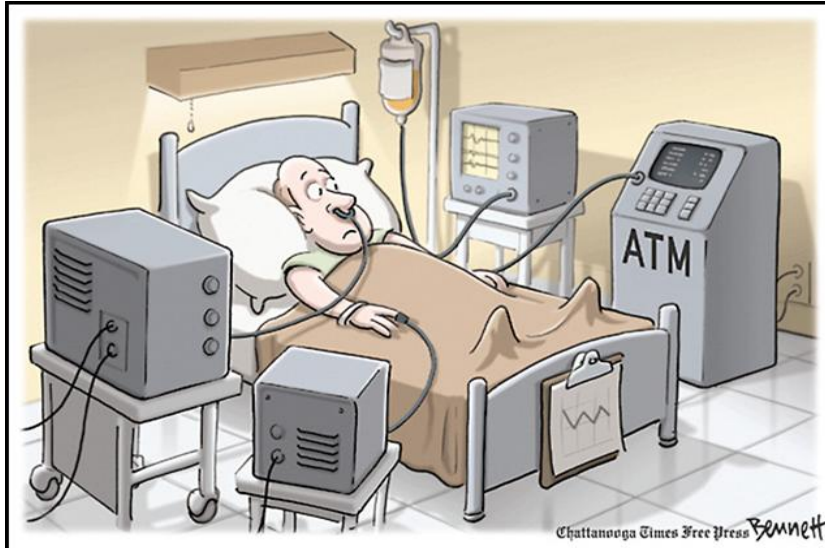
## What Started on 1/1/2012

- **CER Fee**
  - **Comparative Effectiveness Research**
  - **\$2 per EE**
  - **Tax for years 2012 - 2018**

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## It Gets Even Better Now!!!



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## What Started on 1/1/2013

- FSA – Health Care cap was unlimited now \$2,500
- ER Lose Deduction for Plan D subsidy
- Tax Changes
- Health Care Providers Disclosures
- Simplify Health Insurance Administration
  - Electronic Transaction Standards
- Ensuring Quality of Care
- Exchange Reporting
- Uniform Explanation of Coverage - SBC
- Compensation Deduction Limitation
- Consumer Operated & Oriented Plan (COOP) Program

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## What Started on 1/1/2013<sub>(cont'd)</sub>

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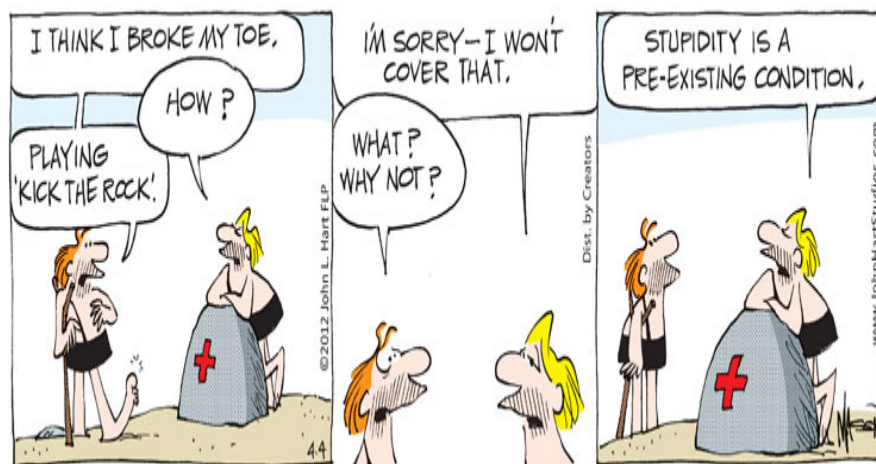
- **Contributions to health care FSA limited to \$2,500 / year** (excluding amounts employer may contribute)

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## How Do You Feel So Far?

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## What Started on 1/1/2014

- **“Everyone” is Covered – not really**
  - 43,000,000 now; 30,000,000 still will not be
- **Automatic Enrollment – delayed – Regs.**
- **Insurance Exchanges – website issues**
- **Pay or Play Mandate – delayed to 2015**
- **Vouchers – delayed to 2015**
- **Non-Grandfathered Plans**
- **Grandfathered Plans**
- **Wellness Programs – delayed - Regs.**

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## “Everyone” does not include

- **Illegal residents**
- **Exceptions to required coverage may be granted for:**
  - Financial hardship
  - Religious objections
  - American Indians
  - No coverage for less than three months
  - Incarcerated individuals? Free Prison
- **“Hardship Waivers”**

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- **Individuals and “small employers” may purchase insurance coverage from Exchanges**
- **Small Employers**
  - **100 50 or fewer employees, although State may choose to limit availability to employers with 50 or fewer employees**
  - **Coverage will be provided by insurance companies**
  - **Must offer specific coverage levels**
  - **Must include “essential health benefits”**



## **“Play or Pay” Mandate**



- U.S. citizens and legal resident must have qualifying coverage or pay a tax penalty.
- Penalty is greater of \$695/year up to maximum of 3 times that amount, or 2.5% of household income.
  - 2014 – greater of \$95 per person in household or 1%
- Penalty phased-in over three years.
- Subsidies for Low Income
  - Calculator at <http://kff.org/interactive/subsidy-calculator/>
  - # people; income; smoke; etc.

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## **“Play or Pay” Mandate** (cont'd)



- Large employers must provide minimum essential coverage that is affordable or pay penalty
  - “Large” means 50 or more full-time employees
  - “Full time” means 30 hours
  - “Affordable” means required contribution for the coverage must not exceed 9.5% of employee’s household income
  - Coverage must provide “minimum value”—at least 60% of plan’s total costs
- Penalty is \$2,000 annually for each FTE (excluding first 30 employees)

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## **“Play or Pay” Mandate** (cont'd)

- **Penalty for large employer who offers minimum essential coverage under employer plan but still has employee enrolled in state health exchange plan is lesser of:**
  - **\$3,000 annually for each employee receiving premium credit; or,**
  - **\$2000 for each FTE (excluding first 30 employees)**

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## **“Play or Pay” Mandate** (cont'd)

- **Employers with less than 50 employees are exempt from penalties**
- **Employers with more than 200 employees must automatically enroll employees in employer-sponsored health plan (if one exists)**
- **Employees must be given notice and opportunity to opt out.**

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## Vouchers



- Large employers who contribute to health plan costs must provide “free choice vouchers” to employees whose income does not exceed 400% of FPL and whose share of premium is more than 8%, but less than 9.8% of household income.
- Vouchers must be equal to amount paid by employer for coverage.
- Employees can use vouchers to purchase health plan coverage from state health exchange.

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## Non-Grandfathered Plans



- **New policies must comply with one of four benefit categories**
  - Bronze
  - Silver
  - Gold
  - Platinum
- **May not impose waiting period of more than 90 days**

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## **Grandfathered & Non-Grandfathered Plans**



- Limit deductibles in small employer market to \$2,000 for individual coverage or \$4,000 for family coverage
- Significantly reduce out-of pocket limits for families with incomes below 400% FPL
- For others, out-of-pocket limits may not exceed \$5,950 for individual coverage or \$11,900 for family coverage

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## **Grandfathered & Non-Grandfathered Plans** (cont'd)



- No pre-existing condition exclusions
- No annual benefit limits
- May not impose waiting period of more than 90 days
- Guaranteed **availability** of coverage
- Guaranteed **renewability** of coverage
- No discrimination based on health status
- No prohibition on participation in clinical trials

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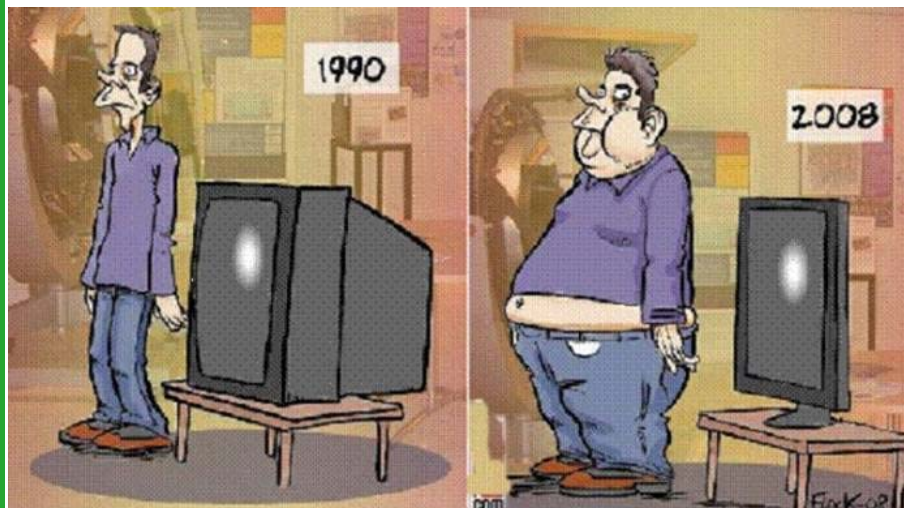


## Wellness Programs

- Allow employers to provide rewards from 30% - 50% of cost of wellness program and for meeting certain health-related standards

## Wellness Issue

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## Essential Health Benefits

- **A set of health care service categories that must be covered by certain plans, starting in 2014.**
- **Reading about 6,000,000+ policies cancelled**
  - 15,000,000 people including spouse, children
- **Individual and small group markets**
- **Inside and Outside of Exchanges (HIX)**
- **Must offer a comprehensive package of items and services. They are as follows:**

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## Essential Health Benefits (cont'd.)

- **Ambulatory patient services (outpatient care you get without being admitted to a hospital)**
- **Emergency services**
- **Hospitalization (such as surgery)**
- **Maternity and newborn care (care before and after your baby is born)**
- **Mental health and substance use disorder services, including behavioral health treatment (this includes counseling and psychotherapy)**
- **Prescription drugs**

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## Essential Health Benefits (cont'd.)



- Rehabilitative and habilitative services and devices (services and devices to help people with injuries, disabilities, or chronic conditions gain or recover mental and physical skills)
- Laboratory services
- Pediatric services
- Preventive and wellness services and chronic disease management

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## Preventive Health Services



- **Most health plans must cover a set of preventive services like shots and screening tests at no cost to you. This includes Marketplace private insurance plans.**
- **Free Preventive Services**
- All Marketplace (HIX) plans and many other plans **must** cover the following list of preventive services without charging you a copayment or coinsurance. This is true even if you haven't met your yearly deductible. This applies only when these services are delivered by a **network provider**.

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## **Preventive Health Services – Adults**



- **Abdominal Aortic Aneurysm one-time screening**
- **Alcohol Misuse screening and counseling**
- **Aspirin use**
- **Blood Pressure screening**
- **Cholesterol screening**
- **Colorectal Cancer screening**
- **Depression screening**
- **Diabetes (Type 2) screening**
- **Diet counseling**

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## **Preventive Health Services – Adults**



- **HIV screening**
- **Immunization vaccines**
- **Obesity screening and counseling**
- **Sexually Transmitted Infection (STI) prevention counseling**
- **Syphilis screening**
- **Tobacco Use screening**
  - for all adults and cessation interventions for tobacco users

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## Preventive Health Services – Women

- Anemia screening
- Breast Cancer Genetic Test Counseling(BRCA)
- Breast Cancer Mammography screening
- Breast Cancer Chemoprevention counseling
- Breastfeeding comprehensive support and counseling
- Cervical Cancer screening
- Chlamydia Infection screening

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## Preventive Health Services – Women

- **Contraception** - Food and Drug Administration-approved contraceptive methods, sterilization procedures, and patient education and counseling, as prescribed by a health care provider for women with reproductive capacity (not including abortifacient drugs). This does not apply to health plans sponsored by certain exempt “religious employers.”
- Domestic and interpersonal violence screening and counseling
- Folic Acid
- Gestational diabetes screening
- Gonorrhea screening
- Hepatitis B screening

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## **Preventive Health Services – Women**



- HIV screening and counseling
- Human Papillomavirus (HPV) DNA Test
- Osteoporosis screening
- Rh Incompatibility screening
- Sexually Transmitted Infections counseling
- Syphilis screening
- Tobacco Use screening and interventions
- Urinary tract or other infection screening
- Well-woman visits

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## **Preventive Health Services – Children**



- Autism screening
- Behavioral assessments
- Blood Pressure screening
- Cervical Dysplasia screening
- Depression screening
- Developmental screening
- Dyslipidemia screening
- Fluoride Chemoprevention supplements
- Gonorrhea preventive medication

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## **Preventive Health Services – Children**



- **Hearing screening**
- **Height, Weight and Body Mass Index measurements**
- **Hematocrit or Hemoglobin screening**
- **Hemoglobinopathies or sickle cell screening**
- **HIV screening**
- **Hypothyroidism screening**
- **Immunization vaccines**
- **Iron supplements**

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## **Preventive Health Services – Children**



- **Lead screening**
- **Medical History**
- **Obesity screening and counseling**
- **Oral Health risk assessment**
- **Phenylketonuria (PKU) screening**
- **Sexually Transmitted Infection (STI) prevention counseling and screening**
- **Tuberculin testing**
- **Vision screening**

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## DR & Patient - Still Work To Do ...

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## Free Health Care ...

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- If you think health care is expensive now, wait until it is "free".

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## Doctor's Brutal Diagnosis



- **Barbara Bellar, MD**
  - **Former Nun; an Army Major; Lawyer; College Professor, Physician**
- **So let me get this straight. This is a long sentence.**
- **We are going to be gifted with a health care plan that we are forced to purchase, and fined if we don't, which reportedly covers 10 million more people without adding a single new doctor, but provides for 16,000 new IRS agents, written by a committee...**

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## Doctor's Brutal Diagnosis...



- **whose chairman doesn't understand it, passed by Congress, that didn't read it, but exempted themselves from it, and signed by a president who smokes, with funding administered by a treasury chief who didn't pay his taxes, for which we will be taxed for four years before any benefits take effect, by a government which has bankrupted Social Security and Medicare, all to be overseen by a surgeon general who is obese and financed by a country that is broke...**

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## Doctor's Brutal Diagnosis...

- So what in the heck could possibly go wrong?"

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## Exchange Observations

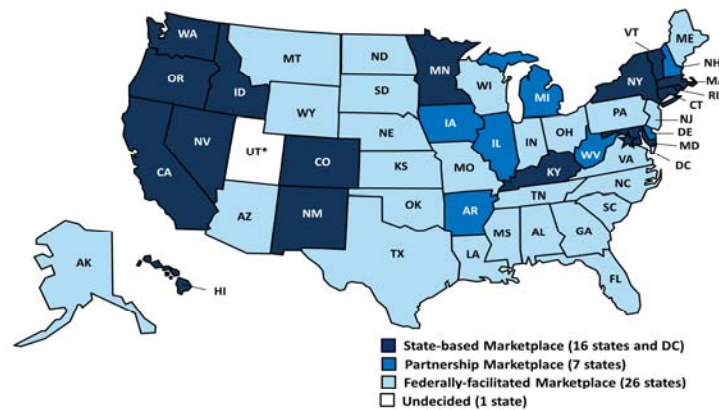
- **Exchange Websites**
  - 16 States + DC – Are working
    - Except Oregon – Federal or WA
    - Except Maryland – joined Connecticut
  - Federal - 34 states–
    - Getting better
    - Back end still Broken – Not Working
- Delayed Mandate Penalty - website not working
- 2,000,000 young people must enroll & not use to subsidize older & sicker people

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## States with Exchanges

### States Decisions For Creating Health Insurance Marketplaces



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## Exchange Observations (cont'd)

- **Who are these sicker & older people??**
- **You & me**
  - < 65 – not eligible for Medicare or Medicaid
  - Still working
  - Early Retirees probably > 55
  - Non COBRA Eligibles
  - High Cholesterol
  - High blood pressure
  - May or may not have cancers – prostate, breast, etc.
  - Generally NOT people in nursing homes
  - Generally NOT people in last 6 months of life

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## Exchange Observations (cont'd)



- Choice of all “rich” plans mandated by gov’t.
  - Everyone gets A++, A+, A, or A- (Essential Health Benefits)
    - No B, C, or D choices
  - Skinny plans not available
  - Maternity coverage for boys, etc.

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## Exchange Observations (cont'd)



- **Risk Management**
  - Insurance Principles
  - Risk sharing
  - Law of Large Numbers

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## Exchange Observations (cont'd)



- **Federal Website Contracting**
  - **PLENTY OF BLAME TO GO AROUND**
  - **CGI Federal**
    - American subsidiary of Canadian company - CGI
    - No USA company selected?????
    - Ontario fired them for being late & non-performance
    - Rated FAIR by federal government on other projects
      - Lowest before de-listed
      - Michelle Obama & President of Company – college pals
    - Supposedly great with database administration
      - Little experience with websites
    - Washington Post 11/23/13 “... high confidence but low success that they could do job ...”

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## Exchange Observations (cont'd)



- **Cost**
  - Started \$55.7MM could go to \$93.7MM in 5 years
  - Now \$292MM ++ & rising (Reuters10/17/13)
  - CMS issued \$678MM to CGI International
- **No Bid Contract**
  - Used ID/IQ system of pre-approved vendors
  - Single source “task order”
- **HHS was General Contractor**
  - Never has been done before
  - Gatekeeper of information
  - Traffic cop
  - Verify all data

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## Exchange Observations (cont'd)



- **Testing 1 week before launch**
  - 100s instead of 1,000s hitting site
- **Technology used is 10 years old, per experts**
- **Data to insurers is practically non-existent**
- **Do Not Call Help Line**
  - They cannot fill out applications on the phone
- **Paper Applications still go into same system!!**
- **40-50% of “back end” not built yet**
  - Payment to insurance companies
  - Premium payments by insureds

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## Exchange Observations (cont'd)



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## Exchange Observations (cont'd)



- **Not like buying ticket on Kayak.com when using Federal Exchange!!!!!!**
- **Tech “Super Stars” brought in to fix website 10/22/13 (Hire in first place???)**
- **It will get done – Cost?? When (not soon)??**
- **CNN reported 11/25/13 that White House on track for 11/30/13 fix**
- **HealthCare.gov had “unscheduled outage” for 2.5 hours 11/25/13**

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## Exchange Observations (cont'd)



- **Jeffrey Zients - brought in to fix Oct. 22**
  - **Bain Capital in Boston**
  - **Entrepreneur**
    - **Sirius/XM radio**
    - **Revolution Health**
  - **Acting Director, OMB after Jack Lew**
  - **Washington, DC grew up – St. Albans Prep School; Duke University;**

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## New Tech Team Arrival ...

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## Exchange Observations (cont'd)

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- **Dr. & Hospital panel / network of providers is MUCH smaller than regular insurance carrier offering**
  - Reduce cost
  - Drive market share to fewer providers as incentive to participate in Exchange Plans
  - Austin Regional Clinic – BCBS only
  - Texas Oncology - NO
- **Medicaid reimbursement rates**
  - Delays to see Dr.
  - Repeat visits

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## Exchange Observations (cont'd)



- **Small businesses like State Exchanges**
  - Many finding better coverage
  - Many finding better rates
- **Travis County Central Health to do ad campaign after website fixed.**
  - **Federal Gov't – hold off**

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## Exchange Observations (cont'd)



- **HealthCare.gov Website 12/2/13**
- **50,000 at one time**
- **800,000 per day**
- **Filling up shopping cart only**
  - **Not Checkout**
- **60% of Back end not built**
- **Amazon – 300 orders / sec. = 1,800/min = 108,000 / hr = 25,920,000 / day**

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## Exchange Observations (cont'd)



- **Navigator issues – Confidential Info – ID Theft**
  - Grants to assist people to enroll
  - Enroll America
    - Obama campaign people / Acorn
  - Fraud in Houston – Under cover filmed advice
    - Non-smoker
    - Do not report cash income
  - 42 Convicted Felons in California
- **October & November roll out was a FLOP per Pres. Obama 11/14/13**

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## Exchange – Breaking News!!!



- **Private enterprise launch Sunday night 11/24**
  - **www.GoHealth.com**
    - Have been working on for over a year
      - Backbone GoHealthInsurance.com
        - 2,000,000 people using
        - **Online shopping w/telephone support**
    - Have access to CMS hub for income, age, subsidies eligibility, verification, etc.
    - They are paid by insurance companies
    - I tested last night - all plans are there
    - It is working including subsidies!

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## Exchange Observations (cont'd)

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**CGI Federal fired – Accenture appointed Jan. 2014 under no bid \$100MM contract.**

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## Exchange Observations (cont'd)

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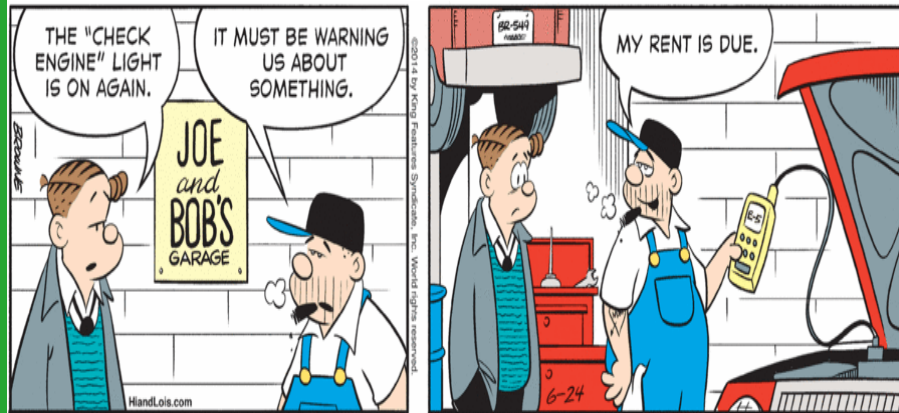


**"I was expecting something with a 3D hologram, hi-def video clips, live web links and 5.1 digital surround sound. But my new business cards are just words on paper!"**

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## Exchange Observations (cont'd)



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## Administrative Fix for Flop

- “If you like your plan or doctor you can keep them, period.”
- Pres. Obama’s “Administrative Fix”
  - Legal Authority to do w/o Congressional action??
  - Unscramble an omelet?
- States regulate insurance – not Federal Gov’t.
- National Assoc. of Insurance Commissioners

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## Administrative Fix (cont'd)



- **National Assoc. of Insurance Commissioners**
  - Solvency of insurance companies
    - You want your claim paid!!!!
  - State Insurance Commissioners
    - Fiefdoms
    - Premium Taxes for States

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## Administrative Fix (cont'd)



- **Separate risk pools**
  - Exchange plans re-insured with Risk Corridors shared by insurance companies PLUS re-insurance for federal gov't.
    - 2014 - \$10 B
    - 2015 - \$6 B
    - 2016 - \$4 B
- **Non-Exchange Plans**
  - Insurance companies bear the risk

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## Administrative Fix (cont'd)



### States **Rejecting** Administrative Fix

1. Arkansas	2. Connecticut
3. Delaware	4. Indiana
5. Massachusetts	6. Minnesota
7. Mississippi	8. Nebraska
9. New York	10. Oklahoma
11. Rhode Island	12. Vermont
13. Virginia	14. Washington
15. West Virginia	(as of 11/27/13)

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## Administrative Fix (cont'd)



### States **Trying** Administrative Fix

1. Florida	2. Hawaii
3. Illinois	4. Kentucky
5. Maryland	6. Michigan
7. Missouri	8. New Hampshire
9. North Carolina	10. North Dakota
11. Ohio	12. Oregon
13. Pennsylvania	14. South Carolina
15. Tennessee	16. Wisconsin (as of 11/27/13)

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## Insurance Payment Fix

B

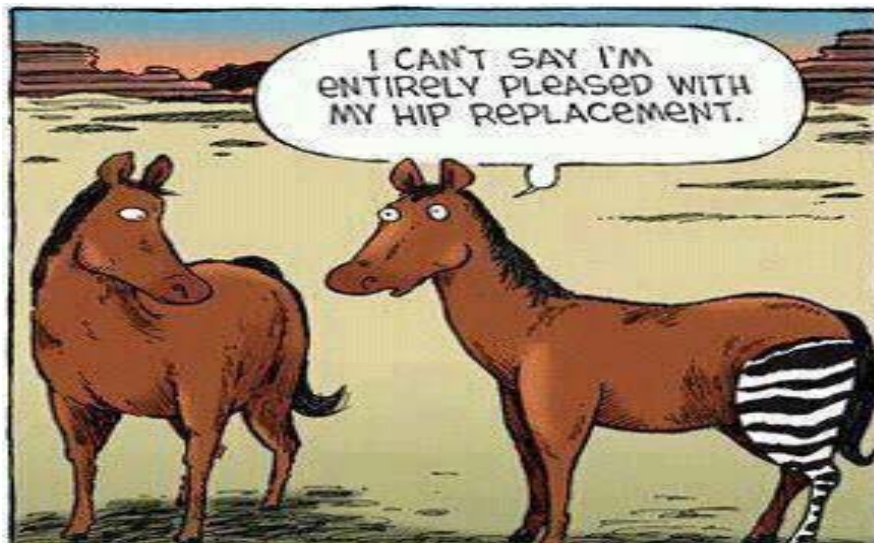
- HHS proposed 7:45 pm 12/3/13
- Why? 60% of back end not built
- **Estimated premiums & subsidies paid to ins. co.**
  - **Reconcile & true up later.**
  - **No area for fraud here ☺**
- 5.7M policy cancellation letters sent
  - 11-13M people covered
- Are you covered 1/1/14?
  - Call your insurance company

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## Outcomes - Still Work To Do...

B



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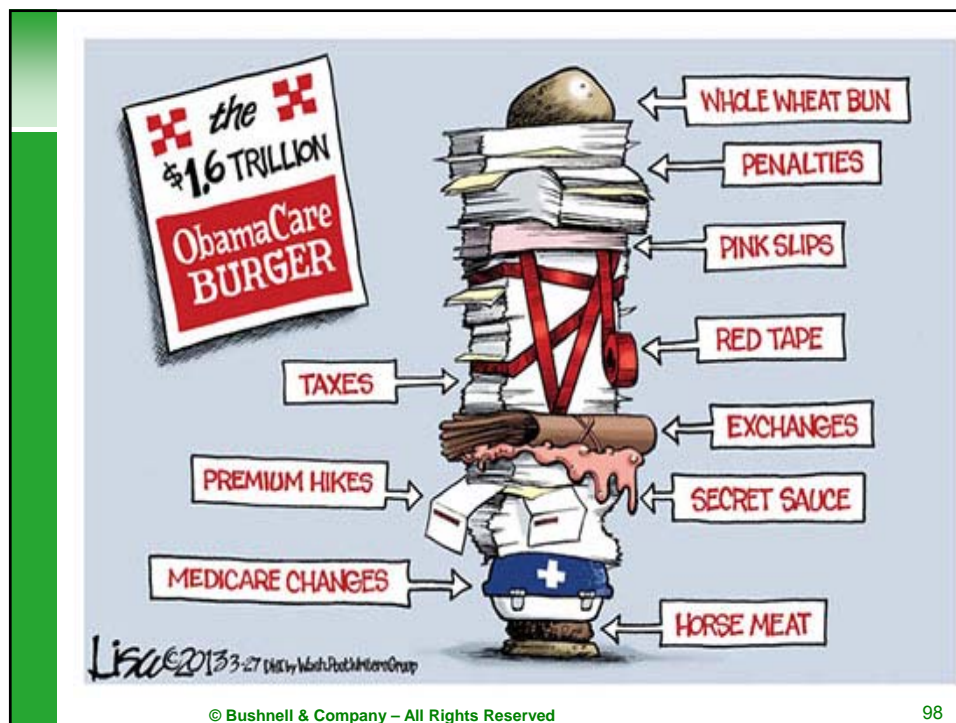
## What Started on 1/1/2015

B

- **Pay or Play starts Large Employers**
- + **What's Coming**
- **Excise tax imposed on "Cadillac" plans in 2018**
- **"Cadillac" plan is employer-sponsored health plan with aggregate values that exceed:**
  - \$10,200 for individuals, or
  - \$27,500 for families

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## HIX Fraud – Occurs in



- **Underwriting**
  - Sales practices & rate setting process
- **Eligibility**
  - Employee and Dependents
  - Service
- **Effective Date of Coverage**
  - Date coverage becomes effective
  - Almost always “at work” requirement

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## HIX Fraud – Occurs in ...



- **Benefit Levels**
  - High & Low Option choices
- **Smoker & Non-Smoker rates**
- **Accounting Premium \$ to Insurance Co.**
- **Employee withholdings**
- **Employer contributions**
- **Employer communications**
- **EE & ER Fraud**

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## HIX Fraud – Occurs in ...



- **Service Providers**
  - Insurance agents – ID Theft?
  - Group Reps for insurance companies
  - Attorneys & Accountants - Reconciliations
  - Third Party Administrators
- **Health Care Providers**
- **Insurance Company -**
  - Who cares – get all you can!
  - **We all pay!!!!**

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## HIX Fraud – Occurs in ...



- **Data Security & Navigators**
  - Name & address
  - Soc. Sec. #
  - DoB, Sex, Smoke
  - All dependents & their information
  - Employer & Income
  - **NOT READY FOR PRIME TIME!!!!**
- **Privacy**
- **McAfee warning 10/28/13**
  - Hackers Dream

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## HIX Fraud – Occurs in ...



- **90 Day Grace Period for Premiums**
  - Get care in month 2 & 3
    - not pay renew premium!
    - No recourse now
      - Add IRS to collect premiums from refunds??
      - How many months
  - Gov't gets fee back from Dr. & Hospital
    - But care was rendered...
  - If premium collected then pay Dr. & Hospital??

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## HIX Fraud – Occurs in ...



- **No “How To Detect” manual**
  - Use your professional benefits knowledge
  - Always be on the lookout
  - Smell test
  - Trust your gut
  - Use common sense
- **Slippery slopes**
- **Ever changing & dynamic**
- **Crooks are creative!!!!**

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## SCOTUS

B

- **1. Constitutional Challenge - settled**
  - Government forced you to buy something or pay a penalty
  - Decision 6/28/12
  - Penalties are taxes & congress can legislate on taxation – upheld - Chief Justice John Roberts
- **2. Hobby Lobby case**
  - Contraception - settled
- **3. King v. Burwell case – next big case**
  - Subsidies for people who use federal exchange because not state exchange - 4<sup>th</sup> Circuit of Appeal
  - Opposite of Halbig v. Burwell – D.C. Circuit of Appeal
    - within hours

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## SCOTUS

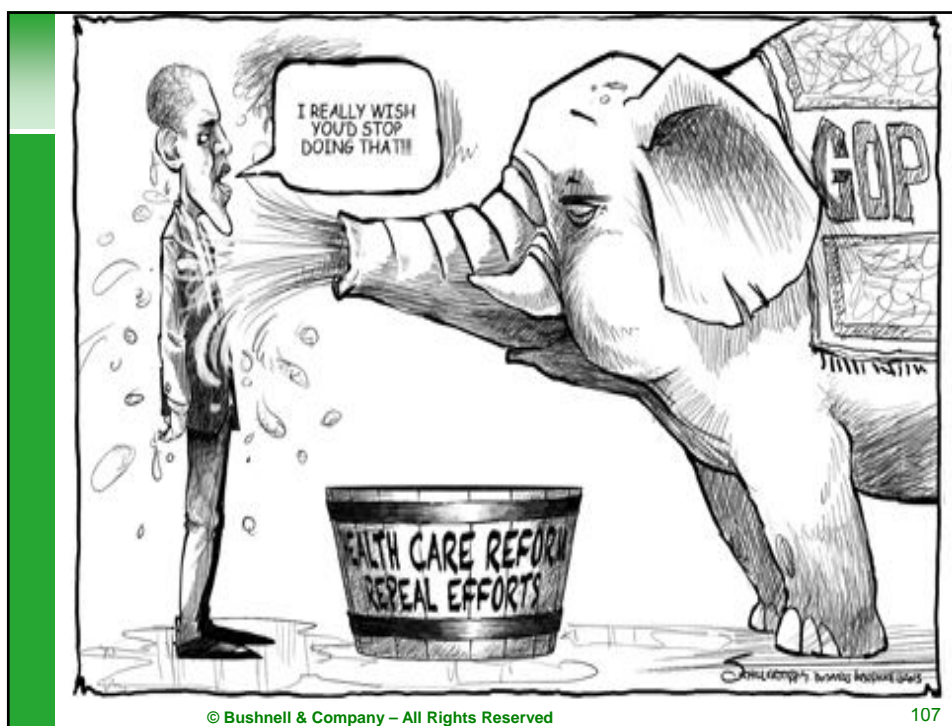
B

- **4. House of Representative v. Burwell**
  - Administration & IRS did not have authority to delay provisions of PPACA with Congressional approval
  - Obama – Pen & Phone doctrine
  - Working its way through the courts
- **Johnathan Gruber – IMPACT????**
  - MIT Economist – Videos surfaced
  - ObamaCare Architect
  - Americans Stupid
  - Had to package a certain way to pass Congress & sell to American People
  - Deceit; False costing assumptions
  - Politically expedient

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## Hobby Lobby Case



## Hobby Lobby Case

- Lots of Misinformation
- Not all contraception
- Just pregnancy termination
  - Morning after pill, etc.

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## King v. Burwell Case

- IRS authorized Subsidies for Enrollees in Federal Exchange
- Law ... The ACA authorizes a federal tax credit for low- and middle-income individuals who purchase insurance through an Exchange **“established by a State.”** Sec. 1311 – federal subsidy to help set up.
- Literal interpretation of Law; or
- Use Sec. 1321( c) – if state does not set up exchange, then HHS “shall establish and operate such Exchange within the State.”  
**Silent on subsidy issue.**

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## King v. Burwell Case cont'd



- 34 states with no state exchange
- **IMPACT** –
  - Health Insurers – ultimately receive subsidies paid
  - Employers – Penalty only triggered if an employee receives subsidy
  - Individuals lose ability to get subsidies
- Oral Arguments March 4, 2015
- Decision due late June 2015

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## King v. Burwell Case – NO cont'd



- If no subsidy is allowed
  - Portions of ObamaCare will unravel
  - No ER penalty if no state exchange
    - Employees in states with & without exchanges
  - Individual penalty does not go away
  - No money (subsidy) for coverage
  - More states adopt another state's exchanges
    - e.g. Join Connecticut?
  - Insurance coverage rules to age 26, etc. that are popular will likely continue.
  - May see some pre-existing come back
  - Some preventive testing will go away as expensive & ripe for fraud

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## King v. Burwell Case – YES cont'd

B

- If subsidy is allowed
  - Then financial issue & delivery issue
  - Not enough Doctors
  - Reimbursements to Dr & Hospital have been reduced
    - **Cost shift to employers**
  - Impact on Medicare & Medicaid
  - 35,000,000 still not covered
  - Fraud
  - Risk pool of high risk & cost individuals

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## CPE - Congratulations ...

B



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## Questions ...



- Thank you and congratulations on your endurance.

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