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The Road to 2014: ACA Considerations for Individuals

Morgan, Lewis & Bockius LLP

Presenters:

Andy R. Anderson

Robert M. Hunter

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The Road to 2014

- ACA considerations for employers (2.28.2013)
 - https://www.morganlewis.com/pubs/EB_Webinar_RoadTo2014_ACAConsiderationsForEmployers_28feb13.pdf
- ACA considerations for group health plans (3.12.2013)
 - http://www.morganlewis.com/pubs/EB_ACAConsiderationsGroupHealthPlans_12march13.pdf
 - Podcasts for both at <http://www.morganlewis.com/podcasts>
- ACA considerations for individuals (today)
 - Who must have coverage?
 - When are individuals eligible for Exchange subsidies?
 - Should some reject employer coverage?

The Road to 2014

- The Road to 2014 is still under construction, and will be for years to come (not to mention patches and possible road widening in future years)
 - But, we have a good idea where the road is going, and how to get to 2014
 - Expect some detours along the way—and perhaps even some dead ends
- We'll all have to make some educated guesses along the way
 - Don't expect too many more significant regulations
 - Expect to hear, along the way, “Off Route: Recalculating” on occasion!

The Road to 2014

- Today's objective:
 - Determine who must have coverage in 2014
 - *What coverage counts?*
 - *Any new taxes?*
 - Review when subsidies are available under the Exchange
 - Investigate when it may be useful to reject employer coverage

Who Must Have Coverage in 2014?

- Basically, starting 1.1.2014, almost all Americans
 - Individual, spouse & federal tax dependents (whether claimed or not)
 - *Special rules for adoptions and timing*
 - Exemptions for:
 - *Religious conscience*
 - Must have been in existence since 12.31.1950
 - *Health care sharing ministry*
 - Must have been in existence since 12.31.1999

Who Must Have Coverage in 2014?

- *Incarceration*
 - Confinement pending disposition of charges is not incarceration; incarceration for one day exempts entire month
- *Exempt noncitizens*
 - Nonresident aliens
 - Not lawfully present
- *Indian tribes*
- *No federal tax filing required due to low income*
- *Living abroad*
- *U.S. Territory resident*

Who Must Have Coverage in 2014?

- *Deceased during the month*
- *Short coverage gaps*
 - Less than 3 months
 - Complicated rules
 - One gap per year exempted
- *Hardship*
 - With respect to capability to obtain coverage

Who Must Have Coverage in 2014?

- *No affordable coverage*
 - Required contribution exceeds 8% of current household income
 - » Household income increased by pre-tax premiums
 - Measured by single Ee premium or family premium for employer coverage (with special dual employment rule); lowest cost bronze exchange coverage that would cover all family members minus subsidy if ineligible for employer coverage
- Some exemptions available only through Exchange; some only through federal income tax return; some are available through both

What Coverage Counts?

- Must be, technically, “minimum essential coverage” such as:
 - Employer-sponsored coverage
 - *Including insured and self-insured coverage, COBRA, retiree coverage, spousal coverage, grandfathered plans, and governmental plans*
 - Individual coverage
 - Medicare
 - Medicaid

What Coverage Counts?

- CHIP
- Veterans coverage
- TRICARE
- Student health coverage
- Does not include specialized coverage such as coverage for excepted vision care or dental care, hospitalization, specific disease coverage, on-site clinics, etc.
- Coverage for one day satisfies monthly obligation

Do I Have to Pay Any New Taxes?

- Yes—if not exempt and fail to obtain minimum essential coverage
 - Calculated each month
 - Lesser of:
 - *Sum of monthly penalty for each individual, or*
 - *Sum of national average bronze premiums for each individual (this serves as a penalty cap on, practically, higher income individuals)*

Do I Have to Pay Any New Taxes?

- Monthly penalty = greater of flat dollar amount or excess income amount
 - Flat dollar amount = \$95/\$325/\$695 annual per individual (to max. of three individuals)
 - *Amount reduced by ½ for individuals under age 18*
 - *Indexed starting after 2016*
 - Excess income amount = 1%/2%/2.5% of annual income over filing threshold
- Disclosed through 2014 federal tax return
 - Will receive statement from employer/insurer

Do I Have to Pay Any New Taxes?

- Payable upon notice and demand by the Secretary of Treasury
 - Cannot file notice of lien or levy
 - Not subject to criminal prosecution or penalty
 - Can offset refund
 - Joint liability, if joint filing
 - *Even if one spouse exempt*

Exchange Coverage and Subsidy

- Individuals are eligible for subsidized Exchange coverage when:
 - Income between 100%-400% of Federal poverty level

2013 Federal Poverty Level Annual Income							
*	100%	133%	150%	200%	250%	300%	400%
1	\$11,490	\$15,282	\$17,235	\$22,980	\$28,725	\$34,470	\$45,960
2	\$15,510	\$20,628	\$23,265	\$31,020	\$38,775	\$46,530	\$62,040
3	\$19,530	\$25,975	\$29,295	\$39,060	\$48,825	\$58,590	\$78,120
4	\$23,550	\$31,322	\$35,325	\$47,100	\$58,875	\$70,650	\$94,200

*Number of Family Members – add \$4,020 for each additional family member at 100%

Exchange Coverage and Subsidy

- Do not qualify for Medicare or Medicaid
- Are not offered employer coverage that is affordable and provides minimum value
 - *Affordability is 9.5% of least expensive single employee coverage—whether single or family coverage*
 - *Declining such coverage ends eligibility*

Should Individuals Ever Decline Employer Coverage?

- Yes, if:
 - Employer coverage is not affordable or does not provide minimum essential coverage (because electing such coverage will still end subsidy for Exchange coverage)
 - Individual's income generates sufficient subsidy under Exchange versus cost of employer plan
 - Exchange coverage is a better value than employer coverage

Should Employers Make Changes in How Coverage is Offered?

- Questions for further consideration:
 - Should employers no longer provide coverage automatically?
 - Should employers charge for coverage and make it voluntary?
- Remember, if an employee has affordable minimum essential coverage that he or she does not want, it might impact on the ability to receive subsidy

Questions?

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Contact Information



Andy R. Anderson
312.324.1177
aanderson@morganlewis.com



Robert M. Hunter
215.963.5058
rhunter@morganlewis.com

international presence

Almaty Beijing Boston Brussels Chicago Dallas Frankfurt Harrisburg Houston Irvine
London Los Angeles Miami Moscow New York Palo Alto Paris Philadelphia Pittsburgh
Princeton San Francisco Tokyo Washington Wilmington