"It was the Best of Times,
It was the Worst of Times…"

"It was a Dark and Stormy Night…"

Health Care Reform

David Trapp

May 2, 2013

Companies
Armitage, Inc.
Second Opinion Insurance Services, Inc.
Corporate Compensation Plans of WI, Inc.
125 N. 7th St., Ste. B, La Crosse, WI 54601
608-784-5433 or 800-952-0263

This is subject to change as additional guidance and information is received and should be used for informational purposes only. Please refer to your legal counsel or tax advisor concerning legal and tax issues; A Companies does not provide legal or tax advice.

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Possible Problems

- The simple parts include who pays for insurance coverage, what is covered, effective dates, and penalties.

- The problems include personnel management and business model decisions. What's best for your people, business, and customers?
  - A lot of labor law/wage and hour decisions.
  - The minimum hours culture to get benefits is threatened.
  - More fulltime employees become benefit eligible (30+ hours/week).
  - That PPACA means covering more uninsured is in question.
  - Decisions – Compensation, Benefits and Human Resources
  - Bring HR Department to all Board Meetings

Note: Plans under 50 FTE's do not have to comply with testing, penalties, and some mandates.

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Health Care Reform Changes for Group and Individual Plans

- Sweeping changes for all group health plans and individual plans as of January 1, 2014
  - All 30+ hours per week employees considered fulltime and eligible for benefits.
  - Under 25 Fulltime Employees – Tax Credit
  - Under 50 Fulltime Employees – No coverage mandate, no penalties and no test for affordability.

- Safe Harbor for 50+ FTE Employees (MEB, 60% A.V., Affordable – No Penalty)
  - Minimum Essential Benefits – 10 Total

    Add Pediatric Dental and Vision
  - Plan must be at least 60% Actuarial Value in HHS Calculations (90% Platinum, 80% Gold, 70% Silver, 60% Bronze)
  - If Plan is affordable then there are no penalties.

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Calculating FT, FTE, Size and Affordability – FTE for Size

- Employees that work 30+ hours/week for a “period” are considered fulltime and eligible for benefits.
- Use “<u>Measurement Period</u>” to count number of fulltime equivalent (FTE) employees.
  - Number of fulltime + “ongoing variable employees” for past 6 or 12 months
- “<u>Administration Period</u>” – up to a 90 day period of time to verify calculations.
- Your count of Fulltime and FTE’s is your “<u>Stability Period</u>” Perform same time each year. – Equal to your contract year.
- Perform these counts before 2014 if 50+ FTE, or when challenged by IRS showing the entry of employees to the Exchange.

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Large Employers- FT for Penalty

- Large Employers – 50+ FTE's with the employees eligible for the Exchange.
  - 50+ FTE (with 31+ Fulltime) Total – 30 FTE
  - Large Employer Penalties with No Coverage
    - Penalty is calculated by number of fulltime employees (not FTE) less the first 30 FT times $2,000. ($3,000 penalty possible)
  - Small employers are those less than 50 FTE, or 30 or less Fulltime, regardless of FTE Count. (No penalties)

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Unaffordable Penalties for Large Employers

- $3,000 penalty is triggered by plan being unaffordable for an employee who is eligible for the exchange. (For safe harbor, you want an affordable plan.)

- To determine affordability:
  - The single health payroll deduction can't be greater than 9.5% of the single employees pre-tax income. The employees' household income cannot be below 400% FPL which qualifies the employee for exchange credit and cost of living adjustment at some FPL.
  - Your plan is affordable if single payroll deductions is less than 9.5% of single income for a 60% or more Actuarial Value plan with Minimum Essential Benefits.

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What is Affordable Care?

What levels of Minimum Essential Benefits are affordable care?

- Exchanges and outside plans will offer 4 levels of "Actuarial Values".
  - 90% Platinum $18,960
  - 80% Gold $16,680
  - 70% Silver $13,296
  - 60% Bronze $10,800
- Each carrier in the Exchange will offer 4 and some variation
- Out of the Exchange there will be many variations with Minimum Essential Benefits.
- Benefits will move to pre-tax and after tax out of the Aggregate Value.
- More pre-tax benefits will reduce taxable income on the W-2, the harder it is for a plan to be 9.5% of Single Income affordable.

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PPACA So Far...

- Dependents covered through age 26
- Women’s Preventive Care 8/1/2012
- W-2 Required Reporting for Large Employers 2012 in 2013
- Summary of Benefits and Coverage (SBC) 9/23/2012

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PPACA: 2013

- "Aggregate Value" W-2 Reporting
  (2013 on 2014 W-2)
- Health FSA Limits of $2,500 Annually per Individual (Medical)
- No Lifetime Maximum on Health Benefits
- FICA Medicare Tax Rate Increase
- Exchanges Set by 10/1/2013 for 1/1/2014
- Coverage and Exchange Option Disclosure (CEOD) Notice - Summer or Fall of 2013 (FLSA)
- Patient-Centered Outcomes Research Institute (PCORI) Fee on Plans
- 2014: 5 to 6 other Fees and Taxes

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Good Things in Health Care Reform Starting in 2014

- No annual limit or lifetime coverage limits
- Annual out of pocket maximums of $6,400 Single and $12,900 Families (all size plans)
- No pre-existing condition clause allowed
- No waiting periods over 90 days
- Clinical Trials paid
- Guarantee Issue health insurance
- 30% of single premium for wellness and 50% smoking differential
- Individual insurance mandate or a tax, and group Play or Pay protects part-timers

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PPACA: 2014

Things to be completed in 2013 (effective in 2014) for 50+ Full Time Equivalent Large Groups (Insured or Self Insured)

- ❑ Determine Actuarial Value
- ❑ Calculate Aggregate Value
- ❑ Select Measurement Periods/Safe Harbors
- ❑ Employer Play or Pay Test – Penalty or Supply Benefits (prepare for 2014 on 2012 data)
- ❑ Employer reporting of the Play or Pay test is triggered by IRS identifying an Exchange eligible employee's tax return based on FPL/Household Income

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PPACA: 2014 - continued

- Small Groups must offer \$2,000 Single/\$4,000 Family Deductible or less plan with a maximum out of pocket of \$6,400 Single/\$12,900 Family.
- Tax on Plans to Fund Temporary Reinsurance Programs
- Exchanges, Private Exchanges and Outside Exchanges
- Federal Subsidies (tax credits) and cost of living reductions based on FPL and Eligibility
- Same rates for same plan in and out of the Exchange - more variations outside
- All health insurance rates will go up 20-30% plus state taxes.

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What do leading accounting firms say?

- PW Coopers LLP – Because of paying the tax deductible health costs “the employee gets a better bang for the buck and the overall the economic incentive for offering coverage in 2014 will be just over $2,000 per employee...”
  - However, employers in accommodation service industries (food, health, financial, entertainment, and recreation) would be ahead by $580 per employee per year if they drop coverage and pay the penalty.

- Mercer LLC – “For employers, the combined $2,000 annual penalty per employee for not offering coverage, loss of the tax break and necessary additional employee compensation could far exceed their current budge for health care benefits.”

- *Business Insurance* 12/24/12

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Changes to Come 2015-2018

- In 2015
  - 1/31/2015 Employer Reporting (FLSA)
  - Plan and Insurer Reporting
  - Exchanges must be self sustaining
- In 2016
  - Exchanges open to employers with up to 100 employees
- In 2017
  - Exchanges can open to Large Employers of 100+
- In 2018
  - Tax on High Cost Plans (Cadillac Plans) - 40% excise tax on Aggregate Values higher than $10,200 Single and $27,500 Family

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Filings, Taxes and Fees

All Employers will pay taxes and fees in and out of the Exchange

- +.9% Medicare Tax on $250,000+ Earners
- 2.3% Tax on Medical Devices
- HHS Quality Data Report (No guidance)
- $1.00/member/year in 2012 (PCORI) Fee paid 7/31/13
- 50+ FTE Play or Pay Penalties of $2,000 or $3,000
- Fully Insured: HHS Health Insurance Premium Tax of 2% per Year
- Insured: Excise Tax on Premium to support the Exchange "Subsidy" and "Cost Share Reduction" of 2.46% of Premium
- Exchange Reinsurance Fee (ERF) of $6.25/member/month
- Insured: Risk Adjustment Fee (REF) because of Individual Adverse Selection-Premium Load
- 2015: Coverage Options Report Notice- Five points of plan data and detailed employee insured data
- 2018: 40% Cadillac Excise Tax on Excess "Aggregate Value"

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Small Groups and Self Funding

- Small Group - No Penalty Advantage
  - Tax credit for small employers
  - Deductibility
  - Flexibility
  - Employee retention and protection still vital
  - More voluntary and post tax benefits

- Do you Self Fund or buy an Insured Plan?

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Insured vs. Self Funded (any size)

Self Funded plans are:

- Not required to participate in a risk-adjustment system
- Not subject to single risk pool standards
- Not subject to 3-1 age pricing compression and other rating mandates
- Not subject to Medical Loss Ratio (MLR) mandates
- Not subject to review of premium increases
- Not subject to annual insurance fee that starts in 2014 for fully insured
- Not subject to the deductible limitations, coinsurance and out of pocket maximums under the Essential Health Benefits guidance

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Self Funding - continued

- Not subject to state premium taxes
- Not subject to state coverage mandates
- Not subject to insurance reserves requirements - OCI and HHS Reporting
- Any plan savings retained by the sponsor, not the insurance company
- More plan and benefit design flexibility and cost management options

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The Game Plan - 50+ FTE’s

Laid out for each carrier by your consultant for different plans. The following example has a 65%/35% premium contribution split. Your specific payroll deduction levels would apply.

Plan Level	Average Annual Family Premium	Average Monthly Family Premium	Employer 65% Contribution	Employee 35% Contribution	At $56,000 HHI, 9.5% is:
Actuarial-100%	$20,857	$1,738	$1,129.70	$608.30	$5,320/an. $443/mo.,
Platinum- 90%	$18,960	$1,580	$1,027.00	$553.00	$5,320/an. $443/mo.
Gold -80%	$16,680	$1,390	$903.50	$486.50	$5,320/an. $443/mo.
Silver - 70%	$13,296	$1,108	$720.20	$387.80	$5,320/an. $443/mo.
Bronze - 60%	$10,800	$900	$585.00	$315.00	$5,320/an. $443/mo.

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Unintended Consequences

The unintended consequences of no health insurance and penalty payments could be greater than keeping some affordable actuarial value level of insurance.

- ❑ When your health insurance is dropped, do your employees expect other compensation?
- ❑ If health insurance is dropped and a penalty is paid, does compensation increase 401k contributions, workers' compensation, payroll taxes, etc. vs. no compensation increase and using after tax benefits?
- ❑ New tax brackets could be more crushing than the present employee health payroll deduction.
- ❑ Other benefits could be dropped to keep health insurance - more after tax benefits.
- ❑ Beef up your EBL, EPL, D&O and Fiduciary Liability limits and check for Government Defense coverage.

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I hope this brief summary is helpful.

Questions?

Health Care Reform Compliance, HR, Testing and Reporting Services will be available by 5/1/2013. Call our office.

This presentation and other white papers are available on our website: *www.armitageinconline.com*

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