CARLTON FIELDS

# The Affordable Care Act Comes of Age

January 03, 2014

Since President Obama signed the Patient Protection and Affordable Care Act (ACA) in March 2010, various provisions of the law have taken effect. However, its core pieces become effective this year. The following summarizes key ACA reforms that take effect in 2014: **Individual Insurance Mandate** This backbone of the ACA requires U.S. citizens and legal residents to have qualifying health coverage. Failure to have health insurance may result in a tax penalty for those without coverage. However, there are certain exemptions. On July 1, 2013, the Department of Health and Human Services (HHS) issued a final rule that established the standards and processes by which insurance exchanges determine eligibility for, and grant exemptions from, the individual mandate. The nine categories of residents exempt from the mandate are:

- Individuals who cannot afford coverage;
- Taxpayers with incomes below the filing threshold;
- Members of Indian tribes;
- Individuals who experience a hardship;
- Individuals who have short gaps in coverage;
- Individuals who object to health coverage on religious grounds;
- Members of a health care-sharing ministry;
- Incarcerated individuals; and
- Individuals who are not legally in the United States

The ACA allows a three-month lapse in coverage during the year without penalty. This means that, to avoid the tax penalty, non-exempt individuals must have a policy in place by April 1, 2014. **Health Insurance Exchanges**

Beginning January 1, 2014, states are required to have opened a state-run health insurance exchange, or to have partnered with the federal government to open an exchange through which individuals and small businesses with up to 100 employees can purchase qualified coverage. The exchanges began open enrollment on October 1, 2013. If enrolled by December 24, 2013, individuals purchasing health insurance on the exchanges will have coverage on January 1, 2014. **Health Insurance Premium Subsidies**

With the launch of the insurance exchanges, certain individuals will receive tax credits as well as subsidies for insurance premiums. The premium subsidies will be allotted to families with incomes at 133-400 percent of the federal poverty level, for insurance through exchanges, while cost sharing subsidies are available to those with incomes up to 250 percent of the poverty level. **Medicaid Expansion**

In states that elected to expand Medicaid, all individuals under age 65 who are ineligible for Medicare (children, pregnant women, parents, and adults without dependent children) with incomes below 138 percent of the federal poverty line (approximately $14,000 for an individual and $29,000 for a family of four) will be eligible for Medicaid. The federal government will provide payments to the states for new eligibles. In 2012, the Supreme Court ruling upholding the ACA made Medicaid expansion optional to the states. Currently, 25 states and the District of Columbia plan to implement expansion in 2014. States that participate in the program will receive 100 percent federal funding for the first three years to support this expanded coverage. **Pre-Existing Conditions or Gender**

Insurers will be prohibited from excluding individuals with pre-existing conditions or to charge higher rates based on gender. On February 28, 2013, HHS issued a final rule implementing guaranteed insurance availability. Non-group policies that were in effect prior to the new law (grandfathered plans) are exempt from this law. The law allows insurers to continue these policies without requiring coverage of pre-existing conditions. **No Limits on Coverage**

Insurance companies may no longer limit lifetime coverage for “essential health benefits.” Additionally, no yearly dollar limits on essential health benefits are allowed for plan years starting January 1, 2014. “Essential health benefits” include ambulatory patient services, emergency services, hospitalization, laboratory services, maternity and newborn care, mental health and substance abuse treatment, prescription drugs, rehabilitative services, preventative and wellness services, and pediatric services. **Ensuring Coverage for Individuals Participating in Clinical Trials**

Insurers will be prohibited from dropping or limiting coverage because an individual chooses to participate in a clinical trial, including all clinical trials that treat cancer or other life threatening diseases. **Insurance Industry Fee**

Insurers will pay an annual fee, based on market share, to help pay for health care reform. On November 29, 2013, the Treasury Department and IRS issued final regulations on the annual fee on certain health insurance providers beginning in 2014. **Open Enrollment for Health Exchanges Ends**

Open enrollment for purchasing 2014 polices in the health insurance marketplaces ends on March 31, 2014, and will not reopen until October 15, 2014. An open enrollment period is the time when consumers may purchase a new health plan. **DELAYED / REVISED PROVISIONS**

Additionally it's worth noting that a few of the law's original 2014 provisions have been postponed, as

follows: **Employer Mandate**
The “employer mandate” requires all businesses with more than 50 full-time equivalent (FTE) employees to provide health insurance for their full-time employees, or pay a per-month "Employer Shared Responsibility Payment" on their federal tax return. On July 2, 2013, the Treasury Department announced a one-year delay in enforcement of this provision, postponing the effective date from Jan. 1, 2014, to Jan. 1, 2015. On July 9, 2013, the IRS and the Department of the Treasury issued an official notice announcing transition relief for 2014 from the Employer Shared Responsibility Provisions, noting that the provisions will be fully effective in 2015. **Cancelled Policies Extended**
On November 14, 2013, President Obama announced that state insurance commissioners would have federal permission to let consumers keep existing insurance policies that do not meet ACA requirements (and might otherwise be cancelled) for an additional year. However, state insurance commissioners are not obligated to allow the continuations of these plans. Moreover, each insurance company can decide not to continue selling the plans. **Cancelled Policies Exempt from Mandate**
On December 19, 2013, HHA released guidance stating that individuals whose plans were canceled may be exempt from the individual mandate under the hardship exemption and may be able to enroll in catastrophic coverage. **SHOP Delay**
On November 27, 2013 HHS announced that employers who purchase small group coverage won’t be able to buy plans online through the federal Small Business Health Options Program (SHOP) until November 2014 for plan year 2015. HHS also posted a set of questions and answers on how the federal SHOP would function, in a limited capacity, through 2014. **Limit on Out-of-Pocket Expenses**
The limit on out-of-pocket costs, including deductibles and co-payments, cannot exceed $6,350 for an individual and $12,700 for a family. On February 20, 2013, however, the Department of Labor granted a one-year grace period to some insurers to allow them to maintain separate out-of-pocket limits for benefits in 2014. **CONCLUSION**
While much regulatory guidance has been issued since the ACA was enacted, many uncertainties remain for individuals, employers, and health care administrators. The ACA provisions can be complex, and the law has been subject to substantial changes on short notice.

## Authored By

Linda L. Fleming

## Related Practices

Health Care

## Related Industries

Health Care

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.