

Health Care Reform

("ICEBERGS,
Dead Ahead")



Presented on September 17, 2013,
in Santa Barbara, Calif.
For HFMA Conference
by Ed McClements, CLU, ChFC



Disclaimer

- I am not an attorney
- I am not a CPA
- I am giving you my educated guess to future plan costs, regulations and potential employer behaviors under the Affordable Care Act as I currently understand it
- Please seek competent legal and tax accounting advice from your own trusted advisors!

Is it GOOD NEWS or BAD NEWS?

■ **DEPENDS!!**

- Most Large Employers will be relieved
- Most Individuals - including employees of Large Employers - will be greatly disappointed
- Even lower income folks will be surprised how little coverage they will obtain from the ACA
- Older folks should be happy (at least happier)
- Younger folks will be annoyed and frustrated
- Hospital Finance folks need to pay attention to the details and plan accordingly

I was a Believer

- 35 years of Employee Benefit consultation experience convinced me that there had to be a major change
- ACA – politics aside, had a lot of good ideas in it
- Raised about \$120,000 from about 20 employers to fund the CO-OP application process
- Created a non-profit entity, Hacia Salud
- Helped pass Calif. Enabling CO-OP legislation
- Applied to CCIIO (HHS) in 3/2012 and 12/2012
- Fiscal Cliff Deal dealt CO-OPs a death blow

More Trouble Ahead?

- The **2012** election's huge impact
- The Administration is demonstrating a huge capacity to waffle and peddle backwards
- July 2 announcement of Play or Pay delay
- Current discussion of Individual Mandate postponement (***22 House Dems approved***)
- Increasing evidence of Exchange unreadiness
- Even the employer mandate to provide a Notice of Coverage Options was announced as toothless
- All eyes on the Exchanges – where are the bodies?
- Mid-Term Elections!

ACA Sees 3 Marketplaces



Individual Market (Supreme Court upholds Mandate)

- Guarantee Issue / No Medical Underwriting / Community Rating
- **Simplified Choices - Metallic Plans and Essential Benefits**
- Carriers with Rates Regulated (80% claims / 20% expenses, 1 to 3 ratio)
- Access via Exchanges and insurance brokers or carriers directly



Small Group Market (2-50 employees) NO Mandate

- Guarantee Issue / No Medical Underwriting / Community Rating
- **Simplified Choices - Metallic Plans and Essential Benefits**
- Carriers with Rates Regulated (80% claims/20% expenses, 1 to 3 ratio)
- Access via Exchanges and insurance brokers or carriers directly



Large Group Market (50+ employees) Play or Pay Mandate

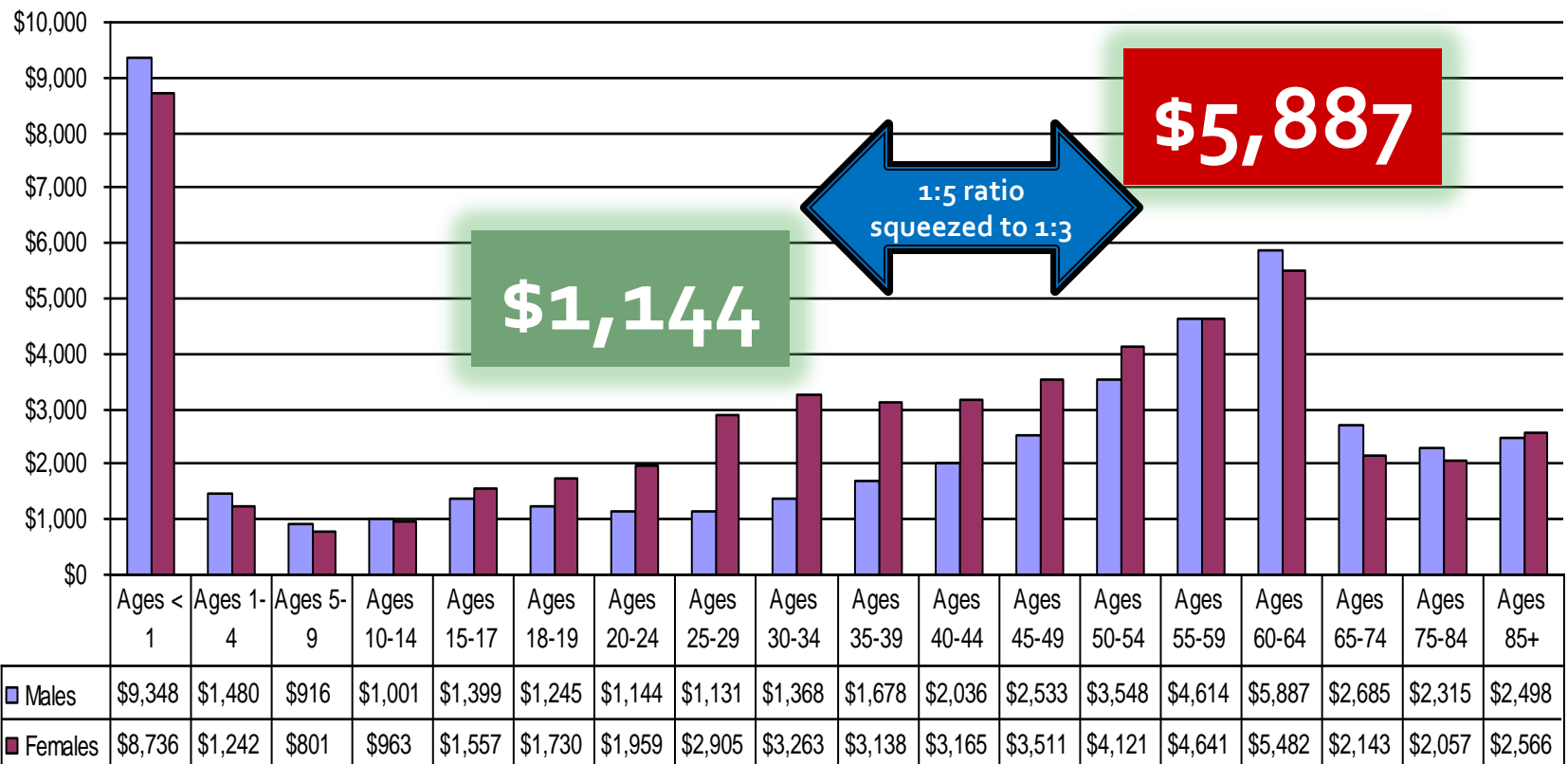
- Guarantee Issue / but Groups are underwritten so rates can be HIGH
- **Minimum Value (60%) but freedom to vary from Essential Benefits**
- Carriers (15% expenses) plus Self Funding Options, Rates NOT regulated
- Access via insurance brokers

How Will Insurers Set Rates?

- No limits on how high rates can go, but community rating is required in the individual and small group markets
- Rates are only based on 5 factors:
 - Plan of Benefits (Bronze/Silver/Gold/Platinum)
 - Family size (EE / ES / EC / EF)
 - Geographic area (19 such zones in CA)
 - Age (max range of 1 to 3)
 - Tobacco use (max range of 150%)...
 - **but not in Calif.**

Effect of 1:3 Age Ratio on Rates

Younger Employees will be forced to subsidize Older Employees



Source: Thompson-Reuters Market Scan Q12009 data

Open Enrollment Window

Balancing GUARANTEE ACCESS for EVERYONE with HUMAN BEHAVIOR

- To reduce ADVERSE SELECTION, insurance companies can restrict enrollment:
 - Initially Oct. 1, 2013* through Mar. 31, 2014
(coverage begins on the first of the month following enrollment, but not earlier than 1/1/2014)
 - Annually thereafter from Oct. 15 through Dec. 7th
 - Special mid-year enrollments available for loss of other coverage and similar issues



Benefit Levels



- In the Individual and Small Group Markets: **10 Essential Benefit categories** (*details are yet to be released by carriers*, but virtually nothing will be excluded from even the most basic coverage level)
- Metallic Plans: Bronze / Silver / Gold / Platinum... Concept is that each level will be **ACTUARIALLY VALUED** to cover 60% / 70% / 80% / 90% **of expected expenses for the entire population** (which is NOT the same as saying each person will get 60% of their claims paid for)
- CMS released the Actuarial Value Calculator (Ind. + Small Group) in Nov. '12
- CMS released the Minimum Value Calculator (Large Group) in Feb. '13
- IRS announced (in May '13) the annual out-of-pocket costs (including deductibles and co-pays) cannot exceed:
 - \$6,350 for single coverage
 - \$12,700 for family coverage
- Unlimited Benefits - NO Annual Benefit Caps allowed

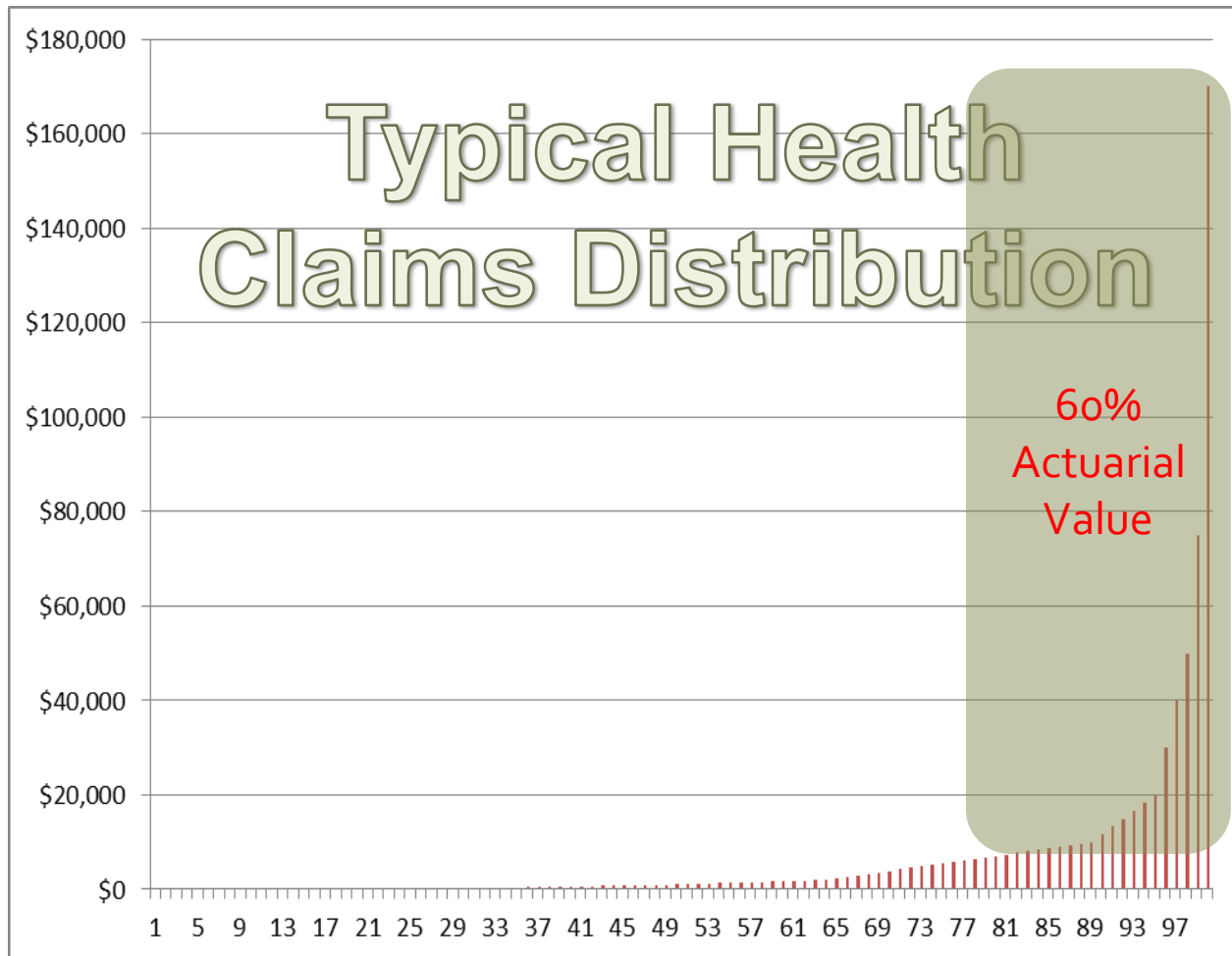
**SURPRISE! The AV & MV
Calculators REQUIRE
BRONZE (60%) plans to
have HIGH DEDUCTIBLES**



2014 Standard Benefits for Individuals

KEY BENEFITS	Bronze	Silver (Lower Cost Sharing Available on Sliding Scale)	Gold	Platinum
	Benefits In Blue are Subject to Deductibles		Copays In the Yellow Sections are Not Subject to any Deductible and Count Toward the Annual Out-of-Pocket Maximum	
Deductible (If any)	\$5,000 Deductible for Medical and Drugs	\$2,000 Medical Deductible	No Deductible	No Deductible
Preventative Care Copay	No Cost – at least 1 yearly visit	No Cost – at least 1 yearly visit	No Cost – at least 1 yearly visit	No Cost – at least 1 yearly visit
Primary Care Visit Copay	\$60 – 3 visits per year	\$45	\$30	\$20
Specialty Care Visit Copay	\$70	\$65	\$50	\$40
Urgent Care Visit Copay	\$120	\$90	\$60	\$40
Generic Medication Copay	\$19	\$19	\$19	\$5
Lab Testing Copay	30%	\$45	\$30	\$20
X-Ray Copay	30%	\$65	\$50	\$40
Emergency Room Copay	\$300	\$250	\$250	\$150
High cost and Infrequent services like Hospital Care and Outpatient Surgery	30% of your plan's negotiated rate	20% of your plan's negotiated rate	HMO Outpatient Surgery – \$600 Hospital – \$600/day up to 5 days PPO – 20%	HMO Outpatient Surgery – \$250 Hospital – \$250/day up to 5 days PPO – 10%
Imaging (MRI, CT, PET Scans)	30%	\$250	\$250	\$150
Brand medications may be subject to Annual Drug Deductible before you pay the copay	\$50-\$75 after meeting deductible	meet \$250 deductible then pay the copay amount	No Deductible	No Deductible
Preferred brand copay after Drug Deductible (If any)	\$50	\$50	\$50	\$15
MAXIMUM OUT-OF-POCKET FOR ONE	\$6,350	\$6,350	\$6,350	\$4,000
MAXIMUM OUT-OF-POCKET FOR FAMILY	\$12,700	\$12,700	\$12,700	\$8,000

Visualizing "Actuarial Value"



Data source: Milliman, 2012

- Most folks have little or no claims
- Less than 1% of the population has a claim over \$100,000
- Only about 10% of the population has a claim over \$10,000
- **REMEMBER...** all preventive care is covered 100% now
- **AND 100% of claims >\$6,350**

What does it MEAN?

- Hospital Admission Departments will have to be vigilant in assessing NOT just coverage / no coverage
- The first \$5,000 to \$6,000 will likely be written off for a LARGE portion of new insureds
- During the OPEN ENROLLMENT period, you might even want to create a charity fund to help patient's get immediate coverage

California's Exchange



Individual
Exchange

**\$674
Million**



SHOP
Exchange



**COVERED
CALIFORNIA**

- Alameda Alliance for Health
- Anthem Blue Cross of California
- Blue Shield of California
- Chinese Community Health Plan
- Contra Costa Health Plan
- Health Net
- Kaiser Permanente
- L.A. Care Health Plan
- Molina Healthcare
- Sharp Health Plan
- Valley Health Plan
- Ventura County Health Care Plan
- Western Health Advantage

**Calif. Divided
into 19 Rating
Areas**

**Only U.S. Citizens and Legal Immigrants
can access the Exchanges and therefore
qualify for Federal Subsidies**

Covered CA – AREA 12

San Luis Obispo / Santa Barbara / Ventura



Sample Rates for a 40 year old:

LOWEST: \$246 for BRONZE Anthem PPO

HIGHEST: \$458 PLATINUM Anthem PPO

Anthem recently announced it will
ONLY participate in the Individual
Exchange... NOT the SHOP



Who is Eligible for Federal Subsidy?

- Federal Government will provide SUBSIDIES to individuals with incomes between **133%** and **400%** of the federal poverty level IF they are NOT OFFERED employer-sponsored ACA compliant coverage
- These are Advanced Income Tax Credits: MIGHT need to be repaid

Cap on Cost of 2nd
least expensive
SILVER PLAN

% of FPL	Cap on Cost
133%	3.00%
150%	4.00%
200%	6.30%
250%	8.05%
300%	9.50%
350%	9.50%
400%	9.50%

2013 Federal Poverty Levels			
Size of family	<u>100% of FPL</u>	133%	400%
1	\$11,170	\$14,856	\$44,680
2	\$15,130	\$20,123	\$60,520
3	\$19,090	\$25,390	\$76,360
4	\$23,050	\$30,657	\$92,200
5	\$27,010	\$35,923	\$108,040
6	\$30,970	\$41,190	\$123,880
7	\$34,930	\$46,457	\$139,720
8	\$38,890	\$51,724	\$155,560

Covered CA Subsidy Sample: Single / \$28,725 yr / 40 / Oxnard

- Subsidy caps cost at 8.05% of income
($\$28,725 / 12 \text{ months} \times 8.05\% = \193 mo.)
- The SECOND least expensive silver plan is \$326
- Therefore this person qualifies for a federal subsidy of **\$133** ($\$326 - \193) That is 40.8% of the premium.
- The **\$133** subsidy can be used on ANY plan...
 - LOWEST COST Bronze plan: $\$246 - \$133 = \$113$
 - HIGHEST COST Platinum plan: $\$458 - \$133 = \$325$
- **Bottom-line: Will a healthy 40 yr. old be willing to pay anything for a medical plan?**



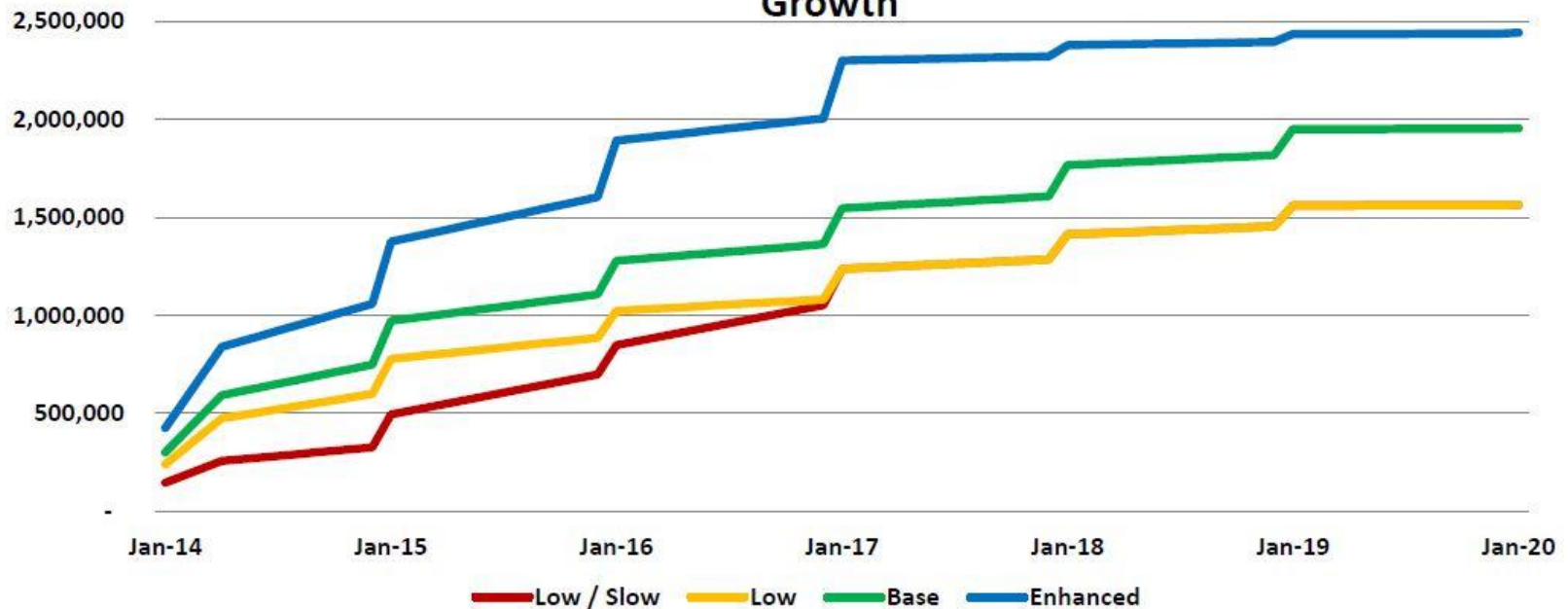
Subsidies Have Strange Effects

The following table looks at the NET Costs, after calculating the Subsidy for three individuals who all have identical wages of \$28,725 (250% of the federal poverty level):
a 25 year old / a 40 year old / a 60 year old

	Premium for 2nd least \$ SILVER Plan			SILVER Net Cost AFTER Subsidy			Lowest Premiumt BRONZE Plan			BRONZE Net Cost AFTER Subsidy		
AGES -	25	40	60	25	40	60	25	40	60	25	40	60
Los Angeles CA	\$200	\$255	\$541	\$193	\$193	\$193	\$147	\$188	\$398	\$140	\$125	\$50
Washington DC	\$180	\$242	\$521	\$180	\$193	\$193	\$124	\$166	\$357	\$124	\$117	\$29
Seattle WA	\$222	\$283	\$601	\$193	\$193	\$193	\$167	\$213	\$452	\$138	\$123	\$44
Indianapolis IN	\$232	\$295	\$626	\$193	\$193	\$193	\$196	\$250	\$531	\$157	\$148	\$97

“Aim High” and Plan for Uncertainty

Exchange Subsidized & Unsubsidized Enrollment Projection Profile and Growth



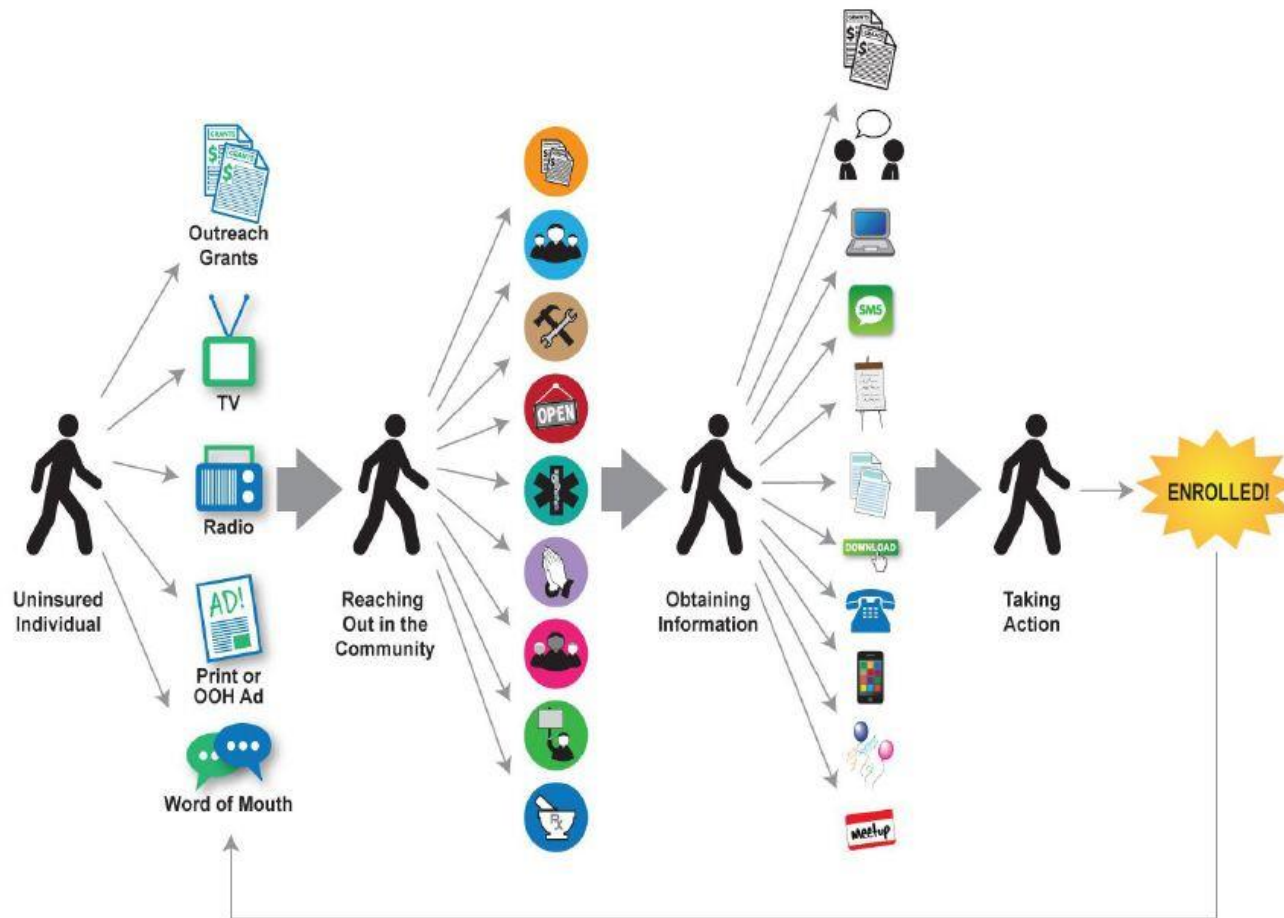
	Jan-14	Jan-15	Jan-16	Jan-17	Jan-18	Jan-19	Jan-20
Low / Slow	150,000	490,000	850,000	1,240,000	1,410,000	1,560,000	1,560,000
Low	240,000	780,000	1,020,000	1,240,000	1,410,000	1,560,000	1,560,000
Base	300,000	970,000	1,280,000	1,550,000	1,770,000	1,950,000	1,950,000
Enhanced	430,000	1,380,000	1,890,000	2,300,000	2,380,000	2,430,000	2,440,000

Covered California is seeking to enroll as many Californians as possible. Covered California is working to meet and exceed its goals, while at the same time planning for lower enrollment by developing budgets that can be adjusted and constantly adjusting its marketing, outreach and operations as needed based on new information and experience.



Covered California Network

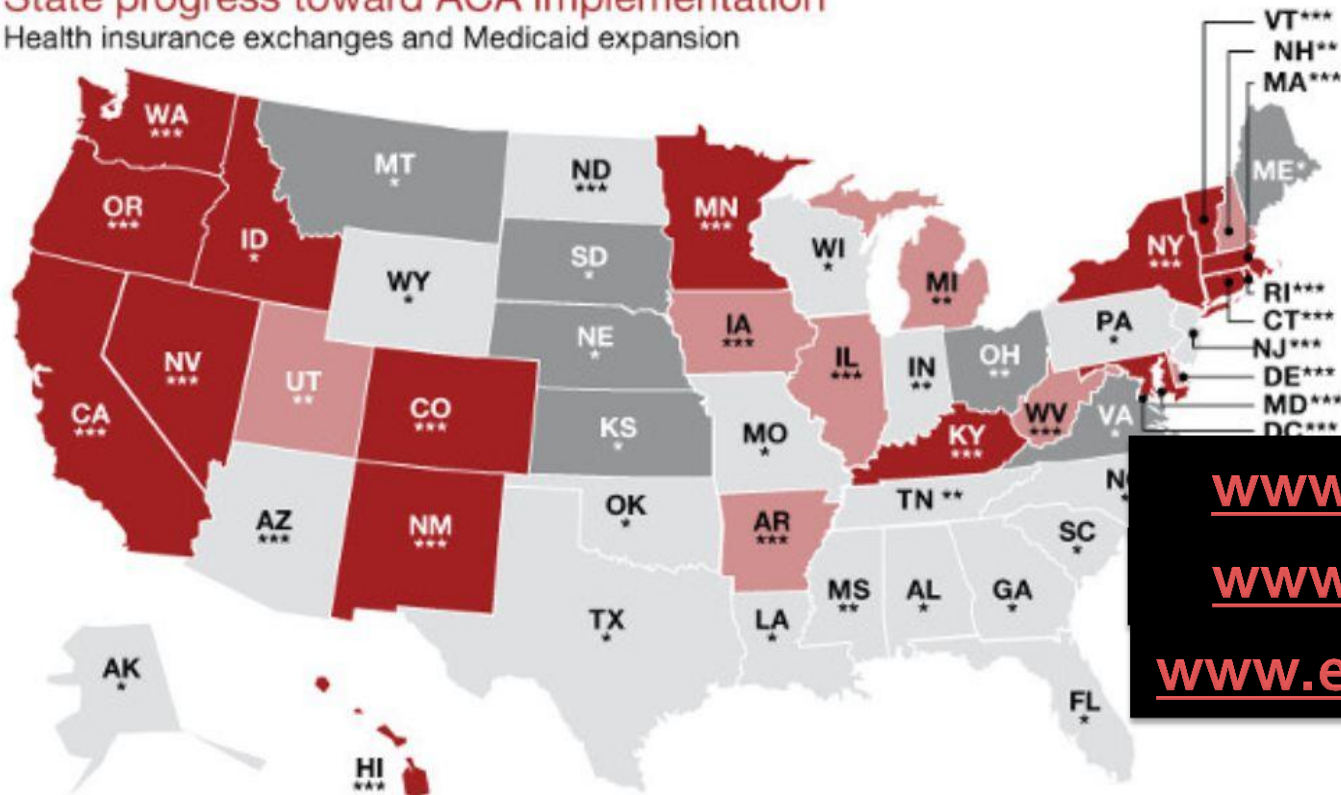
The Assisters Program will align with and complement the Statewide Marketing Plan and the Outreach and Education Grant Program Strategies.



State Exchanges / Federal Exchanges

State progress toward ACA implementation

Health insurance exchanges and Medicaid expansion



www.coveredca.com
www.healthcare.gov
www.enrollamerica.org

Medicaid expansion status



Public exchange status



What does it MEAN?

- Younger (healthier) people will have much less reason to sign up than older (less healthy) individuals
- Undocumented folks are excluded from Exchanges and subsidies, but MIGHT be able to buy private market insurance (especially if you help them find it)
- Pressure will be on Exchanges to perform, but high enrollment is unlikely
- **PREDICTION:** By late Spring 2014, overall poor performance of the Exchanges will be apparent
- Could tip Democratic support of ACA

Individual Mandates / **Penalties**

- Starting in 2014 there's a penalty for not having health insurance
- The penalty is non-deductible excise tax that is the HIGHER of...

2014 1% of income or \$95/adult + \$47.50/child: max \$285

2015 2% of income or \$325/adult + \$162.50/child: max \$975

2016 2.5% of income or \$695/adult + \$347.50/child: max \$2,085

- Percentage caps at average cost of the Bronze Level benefit program

**Question is:
IS THIS ENOUGH OF A
PENALTY TO GET PEOPLE TO
BUY HEALTH INSURANCE?**

Employer “Mandate” Play or Pay

- **Starting 1/1/2015**, the ACA requires large employers (defined as having 50+ full-time equivalent workers in 2014) to either **Play** (offer affordable health coverage that meets minimum coverage standards to their full time workforce) or **Pay** a penalty to the federal gov’t
- **STRONG:** § 4980H(a) If NO COVERAGE is offered (to 5% or more of your full time workers) – the penalty is **\$166.67** per mo. (**\$2,000/year**) for ALL full-time workers (**No penalty applied for the first 30 workers**)
- **WEAK:** § 4980H(b) If coverage IS offered but is deemed unaffordable or fails to reach 60% actuarial value, then certain low income employees can potentially expose the employer to penalties of up to **\$250** per employee per mo. (**\$3,000 per year**) that get exchange subsidy instead

HOW MUCH is the Penalty?

It's a NON-Deductible Business Expense

- Federal Tax is 35%
- California Tax is 8.84%
- Combined is just under 44%
- Therefore the REAL business expense for not providing any coverage is:
 - **\$296.77 per employee per month,**
 - **\$3,561.25 per employee per year**

Play or Pay Rules POSTPONED

2 Blogs = Massive Fireworks

- Afternoon of July 2, 2013
- Valerie Jarrett – White House Blog
- Mark Mazur – U.S. Treasury Blog
- “We hear you”
- No IRS Reporting nor Penalties in 2014
- Large Employers ENCOURAGED to continue plans and expand eligibility in 2014
- All other aspects of ACA remain unchanged



To AVOID Play or Pay Penalty

- **OFFER** F/T EMPLOYEES (avg. 30 hrs/wk)...
- Minimum Actuarial Value of **60%** or better (insurance company will tell you)
- We can do a Minimum Value Calculation
- Ok to deviate from Essential Benefits, but must offer unlimited benefits
- Large Group plans can't require an Out of Pocket Maximum > \$6,350

Offer “Affordable” Coverage

- A Large Employer’s plan will be considered AFFORDABLE if the cost for **employee only** coverage is less than **9.5%** of the Total Household Taxable Income
- Coverage must also be offered for dependent children (up to age 26) but the employee can be required to pay 100% for the dependents
- Spouses can be EXCLUDED from coverage, but this is not mandatory

Six techniques LARGE employers will have to deal with the ACA MANDATE

- 1) pay the penalty
- 2) buy insurance for everyone
- 3) create a partially self funded plan for everyone
- 4) offer plan but require large employee contributions
- 5) offer a plan that fails to meet ACA standards (so called “mini-med” or “skinny plans”)
- 6) offer 2 plans, asks employees to contribute to the ACA compliant plan, and also offers to pay 100% for the non-compliant skinny plan

Strategic Advantages and Disadvantages

Success will depend upon aligning the employer's specific goals and circumstances with the appropriate ACA compliance strategy

We engage the employer in an interactive analysis in which each of the 6 strategies are rated for each CONCERN

Employer Concerns

- 1) Employer Cost
- 2) Ability to Attract Labor
- 3) Employee Satisfaction
- 4) Ease of Implementation
- 5) Reduced Audit Likelihood

Employer Notice of Coverage Options (Exchange Notice)

- **Deadline is 10/1/2013**
- Added to Fair Labor Standards Act by ACA
- Applies to Every Employer
 - at least 1 employee
 - gross revenues over \$500,000
- First Class Mail / Hand Delivery / or electronic delivery (special rules apply)
- All Employees (F/T + P/T + New after 10/1)
- Should be in language understood by employee (bilingual)
- **DOL (on 9/11) announced NO penalty for NON-COMPLIANCE**

What does it MEAN?

- Large employers with current plans will be made crazy with compliance issues, but ultimately change very little in 2014
- Large employers with uncovered employees will NOT invest in benefits until forced to in 2015 – and even then, employees will pay most of the cost
- Some Large employers will seek to limit shifts to under 30 hrs per week
- Many Large Employers will look to create Self Funded Plans for greater cost management
- Some Small (under 50) employers might decide to terminate their plans (and possibly offer raises to their employees to prevent a riot)

ACA Timeline

- 10/1/2013
 - Notice of Coverage Options DEADLINE
 - Covered Calif. Opens for business (Ind. + SHOP)
- 1/1/2014
 - Coverage Starts
 - Insurers must accept all applicants
 - Individuals begin facing penalties for not having ACA coverage
 - **WILL EXCHANGES WORK? HOW MANY ENROLL?**
- 11/4/2014
 - **Mid-Term Election (how many Democrats will be vulnerable?)**
- 1/1/2015
 - Large Employer Reporting and Penalties kick in

Regulations KEEP Coming



Stay INFORMED –
Because the details in
the pending
regulations could have
a huge impact on your
compliance and
business strategy

Final Questions?



Thank you for being a great audience!

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