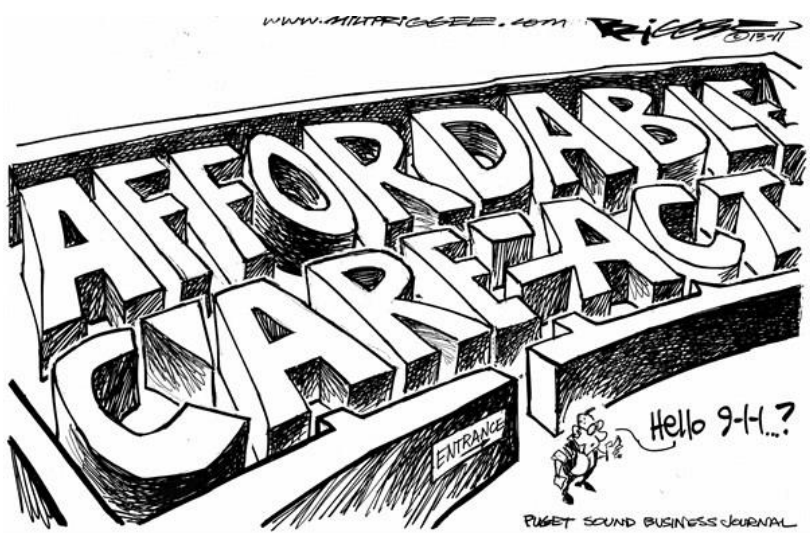
The Affordable Care Act: 2016 and Beyond

Spring 2016



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Today's Focus

- 2016 Concerns
  - Plan Design Considerations
  - ACA By The Numbers
- Lessons from 2015 Employer Reporting
  - Planning for 2016 Reporting
- Cadillac Tax
  - Preparing for 2020

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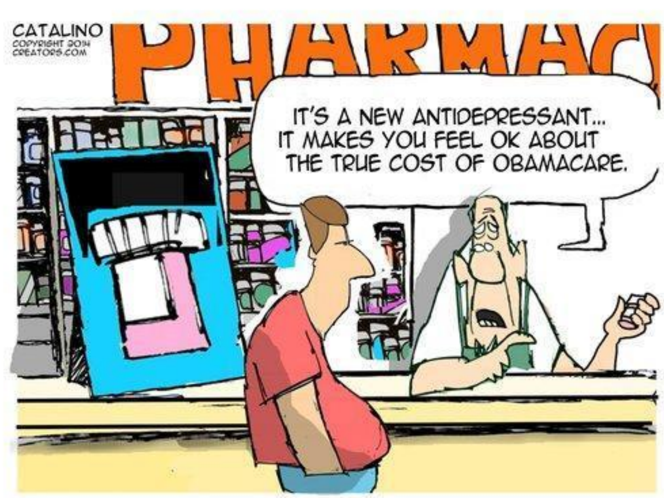

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2016 Plan Design Considerations

- Subrogation after Montanile
- USPSTF Recommendations
- Preparing for Revised SBCs

2016 Plan Design Considerations

Subrogation after Montanile

- Montanile was injured in an accident with a drunk driver and the plan paid $121,044.02 in related medical claims
- Montanile recovered $500,000 (netting $240,000 after attorneys fees and costs)
- Montanile's attorney informed the plan that he would disburse funds if the plan did not object within 14 days

2016 Plan Design Considerations

Subrogation after Montanile

- The Plan did not respond within 14 days and funds were disbursed to Montanile
- 6 months later, the Plan sued for reimbursement
- Montanile claimed that he had spent the majority of the settlement funds
- Case went the U. S. Supreme Court who held that the Plan was out of luck – there was nothing to recover

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2016 Plan Design Considerations

Subrogation after Montanile

- Plan participants are now incentivized to take the money and spend it before the Plan can recoup it
- Plaintiff's attorneys are less inclined to cooperate with the Plan
- More litigation is inevitable
- Bolster Plan language now!

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2016 Plan Design Considerations

USPSTF Recommendations

- "A" and "B" recommendations always added
- Plans do not have to comply with any change until their first plan year on or after one year from the date the new recommendation is issued
  - Screening for depression in adults (February 2017)
  - Screening for depression in adolescents (March 2017)
  - low-dose aspirin use for the prevention of cardiovascular disease and colorectal cancer (May 2017)

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2016 Plan Design Considerations

USPSTF Recommendations

- "A" and "B" recommendations currently pending final recommendation
  - Revised mammography schedule
  - low- to moderate-dose statins (cholesterol medications) for the prevention of cardiovascular disease

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2016 Plan Design Considerations

New distribution rules effective Fall 2015

- SBCs must be distributed to eligible participants at enrollment, within seven days of a participant's request, and within 90 days of a special enrollment (e.g., due to marriage, or birth or adoption of a child).

Preparing for Revised SBCs

- New SBC format effective April 2017 and plan years thereafter
- Need to be ready to use for open enrollment before your 2017 plan year

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2016 Plan Design Considerations

Preparing for Revised SBCs

- New form revises some of the information required to be described on page one of the SBC
- New form adds a new coverage example – simple fracture

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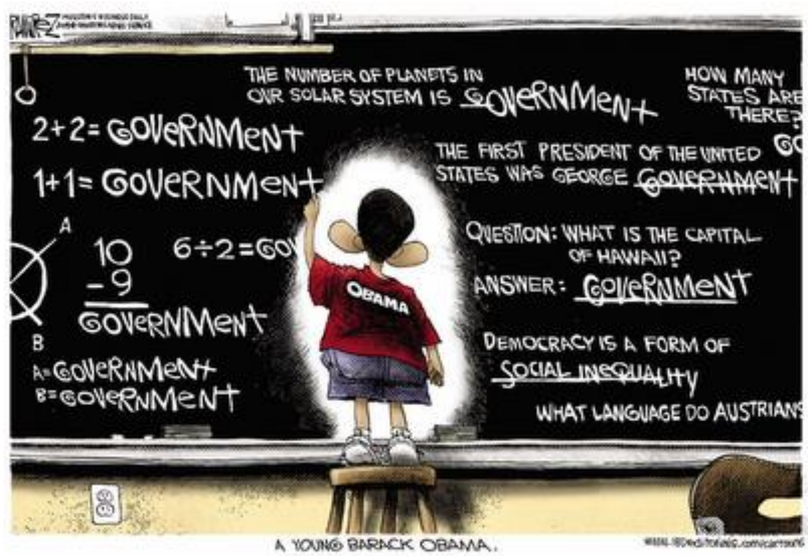

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ACA by the Numbers

- 2016 4980H(a) Penalty
- 2016 4980H(b) Penalty
- 2016 PCORI Fee
- 2016 Transitional Reinsurance Fee
- 2016 and 2017 Out-of-Pocket Limits

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ACA by the Numbers

2016 4980H(a) Penalty

- Employer Shared Responsibility "Offering" Penalty
- Must offer to 95% of employer's full-time employees
- If fail to do so, 2016 penalty is $2,160 multiplied by all of the employer's full-time employees – even those with coverage
- Penalty is $2,260 in 2017

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ACA by the Numbers

2016 4980H(b) Penalty

- Employer Shared Responsibility "Affordability" Penalty
- Must offer affordable coverage that has minimum value to each full-time employee
- If fail to do so, 2016 penalty is $3,240 per each employee for whom the coverage is not affordable
- Penalty is applied on an employee-by-employee basis
- Penalty is $3,390 in 2017

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ACA by the Numbers

2016 PCORI Fee

- For plan years ending on or after October 1, 2015 but before October 1, 2016, the PCORI fee will go up to \$2.17 per every employee, spouse and dependent on the plan
- For plan years ending on or after October 1, 2014 but before October 1, 2015, the PCORI fee will go up to \$2.08 per every employee, spouse and dependent on the plan

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ACA by the Numbers

2016 Transitional Reinsurance Fee

- Last year for paying this fee
- \$27 per covered life (every employee, spouse and dependent under the plan)
- If pay in one installment – full payment due no later than January 15, 2017
- If pay in two installments – first payment due no later than January 15, 2017 and the remainder due no later than November 15, 2017

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ACA by the Numbers

2016 Out-of-Pocket Limits

- $6,850 self-only coverage (employee-only)
- $13,700 other than self-only coverage (family)

2017 Out-of-Pocket Limits

- $7,150 self-only coverage (employee-only)
- $14,300 other than self-only coverage (family)

Lessons from ACA Employer Reporting

- "B" Series Forms: To report certain information to the IRS and taxpayers about individuals who are covered by minimum essential coverage using IRS forms 1094-B and 1095-B. This is an informational return aimed at providing employees with proof they have met the "Individual Mandate" requirement.
- "C" Series Forms: Applicable Large Employers (ALEs) report using IRS forms 1094-C and 1095-C. This is both an information return for "Individual Mandate" purposes as well as an "Employer Mandate" compliance return.

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Lessons from ACA Employer Reporting

- Match employee SSNs and employer TIN on W-2 and 1095.
- Know your employer size.
- Understand and manage your measurement periods:
  - Choosing the right measurement period
  - Counting variable hour employees correctly
  - Processing new and terminated employees each month
  - Managing breaks in service
- Oversee your reporting data all year.

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Cadillac Tax

"If you have any questions about our health-care plan, take it up with the Supreme Court."

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Cadillac Tax

What?

- One of the most significant revenue provisions of the ACA
- Delayed until 2020
- Tax is a 40% non-deductible excise tax on high-cost health coverage
- Tax applies to the amount by which the monthly cost of an employee's applicable group health plan coverage exceeds a specified annual threshold
- The original thresholds (2018) were $10,200 for self-only coverage and $27,500 for other than self-only coverage

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Cadillac Tax

Why?

- Cadillac Tax has two separate purposes
- Raising revenue to offset the cost of health care reform; and
- Reducing the demand for high-cost coverage by making it more expensive thereby inducing insurance carriers and plan sponsors to control health care costs

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Cadillac Tax

Who?

- Applies to "applicable employer-sponsored coverage"
  - Coverage under a group health plan
  - Coverage made available to an employee by an employer
  - Coverage which is excludable from gross income under IRC § 106 (or would be if it was employer-sponsored coverage)
- Applies to both grandfathered and non-grandfathered plans
- Applies to employer-sponsored coverage regardless of whether the employee or the employer pays for the coverage
- Applies to on-site medical clinic coverage

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Cadillac Tax

Who?

- Three general exceptions to coverages subject to the tax:
  - Coverage listed under Code § 9832(c)(1) such as long-term care, accident-only, workers' compensation, automobile med-pay, etc.;
  - Coverage for fully-insured stand-alone dental or vision benefits;
  - Independent non-coordinated coverage if payment is not excludable from the employee's gross income (after-tax coverage for specified disease or illness and hospital indemnity)
- There are different threshold limitations for individuals in high-risk professions including those in law enforcement, fire protection, longshoremen, mining, etc.

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Cadillac Tax

How Much?

- In the simplest terms (using 2018 thresholds):
  - Self-only coverage – If the cost of the health plan for 2018 equals $12,000 per individual with self-only coverage, the plan will pay an excise tax of $720 per covered employee with self-only coverage:
    - $12,000 - $10,200 = $1,800 (above the $10,200 threshold)
    - $1,800 x 40% = $720
  - Other than Self-only coverage – If the cost of the health plan for 2018 equals $32,000 for other than self-only coverage, the plan will pay an excise tax of $1,800 per covered employee with other than self-only coverage:
    - $32,000 - $27,500 = $4,500 (above the $27,500 threshold)
    - $4,500 x 40% = $1,800

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Cadillac Tax

How Much?

- The amount of the tax must be determined in aggregate for all individuals covered under the applicable plan
- For self-funded plans, the cost of the employer-sponsored coverage is determined using one of the two valid methods for calculating applicable COBRA premiums;
- Employers must aggregate all applicable coverages together to determine amount owed, including FSAs, HRAs, etc.
  - For FSAs – use sum of employee's salary reduction contributions plus the cost of any reimbursements in excess of the contributions
  - For HSAs, HRAs – use the sum of employer contributions

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Cadillac Tax

How Much?

- The excess benefit thresholds are subject to 3 separate adjustments:
  - One-time health cost adjustment percentage (2018 only?) tied to increase in the cost of providing health coverage to federal employees between the passage of the law (2010) and its implementation (2018);
  - Cost of living increase (calendar years after 2018?)
  - Age and gender adjustment (may apply in calendar years after 2018?) again tied to the federal employees' health benefit plan

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Cadillac Tax

Penalties

- Failure to correctly calculate the tax can result in a penalty.
- The entity who miscalculates the tax must pay 100% of the additional tax owed plus interest due from the original due date to the date paid.
- Penalties may be waived if it is determined that the miscalculation was due to a reasonable cause and not willful neglect and corrected within 30 days.

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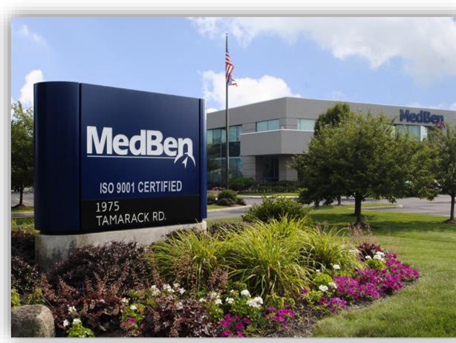
Questions?

MedBen can help!

- *Caroline Fraker*
- *cfraker@medben.com*
- *740-522-7386*
- *www.medben.com*
- @MedBenTPA



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