Health Care Reform Outlook and Washington Update
AUMCPBO Meeting
October 26, 2011

Agenda

- Health Care Reform: Brief Review
- Upcoming Changes
- Will It Be Overturned or Repealed?
- Long-Term Outlook
- Implications for the Denomination
- Housing Allowance Update
Affordable Care Act

- Patient Protection and Affordable Care Act (PPACA or ACA)—March 23, 2010
- Health Care and Education Reconciliation Act of 2010—March 30, 2010
- Agency Regulations
  - Internal Revenue Service (IRS)
  - Health and Human Services (HHS)
  - Department of Labor (DOL)

Changes to the ACA

- *Form 1099* Reporting Requirement Repealed—April 15, 2011
- Department of Defense and Full-Year Continuing Appropriations Act (April 15)
  - Repealed Free-Choice Vouchers
- Other Repeal Efforts—unsuccessful so far
- Other Amendments (state flexibility, FSAs, etc.)—pending
2010-2011 Provisions

• 2011 Plan Changes
  ■ Age 26, no lifetime limits, preventive care, exclusion of over-the-counter drugs from flexible spending accounts (FSAs)

• Early Retiree Reinsurance Program

• Small Business Tax Credit
  ■ Church Plan Relief: IRS Notice 2010-82

• Pre-Existing Condition Insurance Plans

Medicare Part D Changes

• Part D donut hole filled by 2020
  ■ 2011
    ◆ 50% discount on brand-name Rx
    ◆ 7% discount on generic Rx
  ■ Discounts increase each year
    ◆ By 2020, Part D covers 75% of costs in donut hole
  ■ Retiree Drug Subsidy (RDS) remains, but diminishes as a value proposition
Retiree Coverage Strategies

- Medicare-eligible retirees
  - Part D “donut hole” closes—value of RDS diminishes
  - Shift toward medical-only supplemental coverage coupled with Part D
  - Shift toward fixed-dollar retiree health benefit (HRAs)

- Early (pre-65) retirees
  - 2014: exchange-eligible (guaranteed issue and no pre-existing condition limit)
  - Similar shift toward “fixed dollar” or “defined contribution” retiree health benefits

2012-2014 Changes

| Summary of Benefits and Coverage (SBC) | 2012 |
| Health FSAs Limited to $2,500 | 2013 |
| Notice of Exchange Eligibility | 2013 |
| Reporting Value of Health Coverage on Employees¹ Form W-2 | 2014* |
| Large Employer (200+) Automatic Enrollment | 2014 |

* Temporary relief under Notice 2011-28 for church plans and small employers
SBC Content

- Four pages (double-sided, 12 pt. font)
- Benefits, cost-sharing and exclusions
- Coverage examples
- Premium/cost of coverage information
  - Challenges for church plans and employers
- 44-term glossary

SBC Delivery

- Beginning March 23, 2012
- Plan administrator duty
  - Premium/cost addendum from employer*
- At annual enrollment
- Upon request within seven days
- 60 days advance notice of plan changes
- Failure: $1,000 per incident

* HHS guidance suggests insurers can rely upon local employer to provide this addendum; it is not clear that multiple-employer self-insured plans can rely on this.
SBC Preview

Additional Coming Changes

<table>
<thead>
<tr>
<th>Description</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comparative Effectiveness Fee*</td>
<td>2013</td>
</tr>
<tr>
<td>Quality of Care Reporting</td>
<td>2013</td>
</tr>
<tr>
<td>Exchanges, Subsidies and Market Reforms</td>
<td>2014</td>
</tr>
<tr>
<td>Risk-Adjustment Fees* for Exchanges</td>
<td>2014</td>
</tr>
<tr>
<td>Exchanges for Large Employers (100+)</td>
<td>2017</td>
</tr>
<tr>
<td>Cadillac Plan Tax</td>
<td>2018</td>
</tr>
</tbody>
</table>

* These fees apply to self-insured plans.
Judicial Outlook

- 6th Circuit Court of Appeals
  - Upholds mandate 2-1
  - Strong concurrence by G.W. Bush-appointed Judge Sutton

- 11th Circuit
  - Strikes Mandate 2-1
  - Mandate *severable* from remainder of ACA

Judicial

- 4th Circuit
  - Dismisses Va. Challenge—lack of standing
  - Dismisses Liberty University challenge
    - Based on federal Anti-Injunction Act (AIA)
    - AIA prohibits individual suits regarding federal taxes until they are owed and collected

- D.C. Circuit
  - Oral argument focused on AIA and standing
Judicial

• **Supreme Court**
  - Asked by government and states to hear the case in 2011-12 term
  - Decision likely in June 2012
  - Does the AIA bar this suit until 2015?
  - Does the mandate exceed Congress’ powers under the Commerce Clause?
  - Is the mandate “severable” from the ACA?

Political Outlook

• **Presidential Election**
  November 2012
• **Congressional Balance**
  after 2012
  - Senate Filibuster Rule—Will there be 60 GOP votes for repeal?
• What will become of popular provisions (e.g., No pre-existing exclusions, exchanges, subsidies, dependent coverage)
• GOP Replacement (Ryan Plan)—refundable tax credit for all (even those in employer plans)
Uncertain Future

Repeal still unlikely, but Congress may amend the law
- Costs: If subsidies reigned in [300% federal poverty level (FPL)], church plans would be more competitive (Supercommittee)
- State flexibility: single payer systems, stronger employer mandates

Constitutional challenge
- Can exchanges survive without the mandate?
  - Will it be replaced (e.g., late enrollment penalties or incentives)?
- Is the mandate strong enough as is?

Uncertain Future

- More cost-shifting to non-exchange (employer) plans
- Employer abandonment of plans
2014 and Beyond

- Individual mandate applies
  - Everyone in U.S. has insurance or pays tax penalty

- Insurers cannot deny coverage due to health condition or exclude pre-existing conditions

Individual Mandate

- Have minimum essential coverage or pay excise tax
  - 2014: Greater of $95 or 1% of income
  - 2015: Greater of $325 or 2% of income
  - 2016: Greater of $695 or 2.5% of income
  - Indexed after 2016

- Family penalty capped at 300% of the normal penalty

- Dependents under 18 incur 50% of the normal penalty
2014 and Beyond

Exchanges for individuals and small employers

- Exchange plan premiums subsidized for individuals earning less than 400% of federal poverty level (FPL)
- Employers may participate in exchanges (more robust small employer market)
  - Small employers (<50) eligible in 2014
  - State can allow large employers (100+) in 2017

Health Insurance Exchanges

- State-based (or regional) single risk pool
- Only “insurance companies” may offer coverage
  - HHS asked church plans and union plans for comment
  - Church Alliance effort: allow church plans
- Ratings: quality, price, enrollee satisfaction
- Premium rate variation limits: age (3:1), tobacco use (1.5:1), family structure and geography
- Platinum (90%), gold (80%), silver (70%), bronze (60%) plans
Exchange Subsidies

- Individuals/households earning less than 400% FPL receive federal subsidy for exchange insurance
  - FPL 2011 for individual: $10,890 (x 4 = $43,560)
    - Estimated 400% FPL for 2014: $48,000
  - FPL 2011 for family of four: $22,350 (x 4 = $89,400)
    - Estimated 400% FPL for 2014: $98,000

- Premium limited to 2% to 9.5% of income
- Out-of-pocket cost-sharing limited for low income (>250% of FPL)

Exchanges: Applied Examples

UMC minister making median compensation:

- Median pay 2010: $56,795
- Housing allowance: $12,695
- MAGI*: $44,100

* Modified adjusted gross income (MAGI)
Applied Examples

Median-paid minister (MAGI $44,100)

<table>
<thead>
<tr>
<th>Family Size</th>
<th>% FPL</th>
<th>Max % Paid to Health Coverage</th>
<th>Cost Sharing Limits</th>
<th>Out-of-Pocket Limit (Individual/Family)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>&gt;400%</td>
<td>No limit</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>2</td>
<td>300%-400%</td>
<td>9.5% ($4,190)</td>
<td>30%</td>
<td>$3,987/$7,973</td>
</tr>
<tr>
<td>3</td>
<td>200%-250%</td>
<td>6.3% - 8.05% ($2,778 - $3,550)</td>
<td>13%</td>
<td>$2,975/$5,950</td>
</tr>
<tr>
<td>4</td>
<td>200%-250%</td>
<td>6.3% - 8.05% ($2,778 - $3,550)</td>
<td>13%</td>
<td>$2,975/$5,950</td>
</tr>
</tbody>
</table>

Typical UMC PPO Plan

<table>
<thead>
<tr>
<th></th>
<th>Individual $3,000 / Family $6,000 (Out-of-Network $6,000 / $12,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Out-of-Pocket Maximum</td>
<td></td>
</tr>
<tr>
<td>Deductible</td>
<td>Individual $500 / Family $1,000 (Out-of-Network $1,000 / $2,000)</td>
</tr>
<tr>
<td>Co-insurance</td>
<td>20% (40% Out-of-Network)</td>
</tr>
<tr>
<td>PPO Premium</td>
<td>Individual: $7,500</td>
</tr>
<tr>
<td></td>
<td>Participant + 1: $13,000</td>
</tr>
<tr>
<td></td>
<td>Family: $19,000</td>
</tr>
</tbody>
</table>
Applied Examples

Median-paid minister (MAGI $44,100) with spouse and child

<table>
<thead>
<tr>
<th></th>
<th>Exchange Plan</th>
<th>HF PPO Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premium</td>
<td>$3,300</td>
<td>$19,000</td>
</tr>
<tr>
<td>Cost Share</td>
<td>13%</td>
<td>20%+</td>
</tr>
<tr>
<td>Out-of-Pocket Maximum</td>
<td>$5,950</td>
<td>$6,000</td>
</tr>
</tbody>
</table>

Applied Examples

Median-paid minister with full-time working spouse and child (MAGI $70,600)

<table>
<thead>
<tr>
<th></th>
<th>Exchange Plan</th>
<th>HF PPO Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premium</td>
<td>$6,700</td>
<td>$19,000</td>
</tr>
<tr>
<td>Cost Share</td>
<td>30%</td>
<td>20%+</td>
</tr>
<tr>
<td>Out-of-Pocket Maximum</td>
<td>$7,973</td>
<td>$6,000</td>
</tr>
</tbody>
</table>
2014 and Beyond

Employer mandate “pay or play” begins for large employers

• Employers with 50 or more employees must provide “affordable coverage” or pay a penalty

Employer “Mandate”

“Large employer” employs an average of at least 50 full-time employees

• FTEs work 30 hours per week
• FTE equivalents (i.e., aggregated part-timers) are counted to determine whether employer is subject to the free-rider penalty
  ■ But FTE equivalents do not count toward amount of penalty
• Controlled group rules Code §414(c) apply
  ■ Some uncertainty for churches under current law
**Employer “Mandate”**

Large employers required to pay “free rider” penalty beginning in 2014 if:

- Do not offer coverage at all, or
- Offer coverage *and* at least one (even if only one) full-time equivalent employee (FTE) enrolls in an exchange and qualifies for a subsidy

---

**Employer Coverage**

- When employer coverage is offered, an employee is eligible for an exchange subsidy only if (in addition to meeting the income requirements):
  - Employee’s contribution (share of premium) under the employer plan exceeds 9.5% of *household income*, or
  - Employer pays less than 60% of total cost of plan

*Employers often have little information about employees’ household income*
Employer Penalty Calculation

- **No coverage offered:**
  - Total number of FTEs x $2,000

- **Coverage too costly**—(coverage offered, but one FTE receives an exchange subsidy)
  - *Lesser of*:
    - Total number of FTEs receiving a subsidy x $3,000, or
    - Total number of FTEs x $2,000 ("no coverage" penalty)

- **Other rules:**
  - Adjusted for inflation after 2014
  - First 30 FTEs *do not count* in calculating penalty
  - Calculated on a monthly basis

Employer Mandate Example

- **Large Church or Conference Office:** 55 FTEs
  - 6 full-time clergy; 4 half-time clergy
  - 30 full-time lay employees; 34 part-time lay employees

- **If offers no coverage**
  - Penalty = $12,000 (36*-30 = 6 x $2,000)

- **Versus annual premium** = $350,000

- **Higher-paid employees may suffer if church drops employer coverage**

*Part-time employees not counted in assessing the penalty*
Employer Mandate Example

- Annual Conference with 800 FTEs
  - If Code §414(c) is applied across the conference:
    - 400 full-time clergy at local churches
    - 300 full-time lay employees at local churches
    - 50 full-time lay staff at conference offices
    - 50 half-time clergy
    - 50 part-time lay employees
  - If offers no coverage
    - Penalty = $1,440,000 (750-30 = 720 x $2,000)
  - Annual premium costs = $6,000,000

Church Alliance Efforts

- Obtaining “qualified health plan” status
  - Church plan access to Exchanges
  - Participant eligibility for individual subsidies
- Ensuring church plans are “Minimum Essential Coverage” to avoid penalties
- Controlled Group Rules: Code §414(c)
  - Preserve denominational control over determination
  - Default assumption of local church
Annual Conference Strategy

- **Provide solid plan to participants**
  - Adjust to legal changes and support, and educate churches and participants
  - Provide transition support, particularly for larger church employers/participants who are not subsidy-eligible (higher-paid clergy/employees)

- **Implement new business model for post-exchange world**
  - Informative and advisory role

- **Prepare for unintended consequences**

---

General Conference 2012

Petition to amend ¶639 “Annual Conference Health Plans”

- Provide greater flexibility for annual conferences to adjust to the changing health plan landscape
- Preserve reasonable administrative and financial support for health coverage for clergy
Impact on UMC

- \(\frac{3}{4}\) of UMC clergy may be eligible for exchange subsidies

- Demise of annual conference health plans
  - What happens to:
    - Higher-paid clergy?
    - Conference office/foundation/agency staff?
    - Larger churches?

- Dollars saved on plan costs
  - But may be offset some by equitable compensation, employment taxes, etc.

Housing Allowance Update

- Freedom From Religion Foundation (FFRF) case in California (Northern District) voluntarily dismissed
  - Standing problem—especially after Winn v. Arizona
Housing Allowance Update

  - Better argument for standing
    - Designated portion of FFRF directors’ salary as “housing allowance”—not eligible for deduction under Code §107
    - One director is a former clergy

Housing Allowance

- Tax Court case found that minister could claim housing allowance on a second home—Driscoll v. Commissioner
  - Driscoll, ordained minister/musician, did not owe income tax on $408,000 provided by ministry to purchase second home

- Renewed scrutiny from Senator Grassley