ACA Implementation Update:
Preparing for 2015
Where are we now?

2014 Open Enrollment Ended March 31.

Consumers cannot purchase individual coverage unless there is a Special Enrollment Period:

- Involuntary loss of Minimum Essential Coverage
- Newly eligible for tax credits
- Life events: marriage, child, change in citizenship status, permanent move
- Error or inaction by the Exchange
- Misconduct by someone providing enrollment assistance
- Exceptional circumstances
- Special rule for American Indians and Alaska Natives
Big Questions

Big Questions Still Exist About the Impact of ACA:

• How many Exchange enrollees have paid premiums, and will continue doing so?
• What percent of enrollees had a pre-existing condition or are having a baby?
• Who will enter the market during the year through special enrollment periods?
• What are the numbers in each state? For each carrier?

• And the biggest question…
What About Premiums?

Rates are likely to increase in every state (they always do), the question is how much

The answer will depend on many factors:
  ◦ Demographics of the new risk pool
  ◦ Impact of grandfathered and transition plans on the pools
  ◦ Application of new market rules on plans as they renew in 2014
  ◦ Increasing federal premium taxes – Changes in reinsurance
  ◦ Increasing administrative costs (especially in SHOP)
  ◦ Enrollment and payment issues with the exchanges
  ◦ Effectiveness of the risk-sharing programs

Most of this will be unknown when 2015 rates are filed
What’s Coming Up This Year?

- QHP submission dates
- New QHP Requirements
- Federal Oversight/Enforcement
- New Functionality in SHOP Exchanges
- Mandate Changes
- Court Cases – Elections
QHP Submission Timeline

For Partnership States:
First QHP Submission = August 8
Final QHP Submission = September 4
Agreements Signed = November 3

State-Based Exchanges Set Own Timelines

Open Enrollment: November 15 – February 15
# New QHP Requirements in 2015

## Network Adequacy

<table>
<thead>
<tr>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>State review -OR-</td>
<td>CMS reviews provider list submitted by issuer using a “reasonable access” standard.</td>
</tr>
<tr>
<td>• Accreditation -OR-</td>
<td>Experience from 2015 reviews will inform future rulemaking.</td>
</tr>
<tr>
<td>• Access plan</td>
<td></td>
</tr>
</tbody>
</table>

## Essential Community Providers

<table>
<thead>
<tr>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>QHPs cover 20% of ECPs or provide justification of adequacy</td>
<td>QHPs cover 30% of ECPs (or provide justification of adequacy</td>
</tr>
<tr>
<td>Minimum expectation of 10% of ECPs</td>
<td>No minimum expectation standard</td>
</tr>
</tbody>
</table>
Federal Enforcement Actions

- Currently performing MLR audits
- Will do market conduct audits in 5 states; others, if necessary

Penalties
- The maximum amount of penalty imposed under this paragraph is $100 for each day for each individual with respect to which such a failure occurs
- No penalties if “reasonable diligence” found
- Administrative review
- Judicial review

- Will do network adequacy outlier test and compliance review of plans in FFM states
- May deny Exchange participation

- Federal government may not prohibit the sale of a policy or use of a rate in a state
SHOP Exchange Changes

New Functionality in Small Group Exchange:

- Will Have an Operating Website This Year

- “Employee Choice” Will Be Added Option
  - Employer chooses level; each employee chooses own plan
  - Each employee rated based on age, tobacco use, family composition, plan choice
  - Exchange collects premiums and disburses to carriers
  - 20 States Chose to Delay “Employee Choice” for one year
Mandate Changes

Employee Coverage Requirements

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; 50 employees</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>50-100 employees</td>
<td>None</td>
<td>None</td>
<td>95%</td>
</tr>
<tr>
<td>&gt; 100 employees</td>
<td>None</td>
<td>70%</td>
<td>95%</td>
</tr>
</tbody>
</table>

Individual Mandate:

- Individual Mandate Penalty Increases to $325/adult or 2% of Household Income, whichever is higher
- Was $95/adult or 1% of Household Income, whichever is higher
Court Cases - Elections

Outstanding Court Cases:
• Are Consumers in FFM States Eligible for Federal Subsidies?
• Did the ACA follow proper order as tax legislation?

2014 Elections:
• Who will have majority in Senate?
• What can be done in 2015?
What About 2016 and Beyond?

- Need Essential Health Benefits Benchmark for 2016 and Beyond (no regulation currently in place)
- Small Group Definition Changes to 1-100 in 2016
- Reinsurance and Risk Corridor Programs End in 2017
- State Innovation Waivers Begin in 2017
- Quality Data Must Be Posted in 2016
- Enrollee Survey Results in 2017
- “Cadillac Tax” Begins after December 31, 2017
- Must Address Insurance and Health Care Costs
Other Key Issues

- Data Matching – immigrant status and income
- Definition of “Fixed Indemnity” Plans – Must be supplemental (how will this be enforced?)
- Risk Corridors – Will funding be available?
- Risk Adjustment – How much money will change hands? What impact will it have?
- Renewals – Who will renew for 2015?
- Penalties/Reconciliation – What will happen next April?
- Health Savings Accounts – Can they continue?
- Mental Health Parity – Effective July 1, 2014 for group market
- Duplication of Oversight – Are there two regulators? Will feds defer to states and their processes? What cost to carriers?
- Navigator Litigation and Regulation
Navigators

- **Missouri Navigator Lawsuit**
  - Federal district court judge issued an injunction preventing the implementation of Missouri’s Navigator licensing statute.
  - Broad preemption reasoning in the decision could touch other state laws if adopted by other courts.

- **Final Market Standards regulation prohibits states from:**
  - Requiring Navigators to refer consumers to an individual who is not impartial (read: agent/broker);
  - Preventing Navigators from discussing the terms of coverage of any particular policy or plan, or from providing advice regarding substantive benefits or comparative benefits of different plans; or
  - Requiring that a Navigator hold an agent or broker license or carry errors or omission insurance.

- **2015 Navigator funding applications being submitted now**
  - Will states receive full list of Navigators (all workers) to ensure compliance with state requirements?
Questions?

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