THE INTENDED AND UNINTENDED CONSEQUENCES
OF THE
AFFORDABLE CARE ACT

In the beginning.....

The Patient Protection and Affordable Care Act signed into law March 24th, 2010 was intended to address the following issues:

1. To provide affordable health insurance to all Americans.
2. No one could be turned-down for health insurance.
3. No pre-existing conditions could be excluded from the coverage.
4. Plan limits were removed and 10 essential benefits were required.
5. Many preventive services were required to be covered in health plans.
6. Children could be left on their parent’s plan until they turned 26 years old.
7. Individuals could receive federal tax subsidies through state and federal exchanges.
8. Medicaid expansion allowed millions of Americans no-cost health insurance.
9. Health care cost would be lowered.

Let’s look at the unintended consequences of the individual, small employer and large employer markets.
**INDIVIDUAL MARKETS**

**Policies purchased off the exchanges**

1. The placement of these plans went exceptionally well. No underwriting allowed for quick issue of the policy.
2. Fewer carriers offered P.P.O. plans. Example: Sierra, Humana and Assurance Health were the only P.P.O.’s offered in Nevada.

**Policies purchased on the National and State exchanges**

1. Operating systems of the federal and state-run exchanges were a failure.
2. In Nevada, 38,000 purchased through the exchange; the goal was 118,000.
3. It is predicted that 25% of national enrollees have misrepresented their incomes to gain subsidies or are illegal aliens who do not qualify.
4. Aetna recently announced they have lost 15% of their initial enrollees for non-payment and expect this to rise to 25%.
5. Deductibles ranging from $2,000 to $3,000 have discouraged uninsured from buying coverage.

**Medicaid expansion in Nevada**

1. Income only requirements have induced 177,000 Nevadans to sign-up for Medicaid; individuals with less than $16,105/ family of 4 with less than $32,913. **See Exhibit 1**
2. Coverage: free insurance- no premium, no deductible, no co-insurance.
3. 2015 Nevada State legislators must now begin finding an additional $500 million in funding for the 2017 fiscal year.
SMALL EMPLOYER MARKET (LESS THAN 50 EMPLOYEES)

The basic rules

1. These employers are **not** required to offer employer sponsored plans.
2. IRS has recently ruled that individual medical policies cannot be used for employer sponsored plans and keep their tax favored status.
3. Husband and wife are no longer considered an eligible “group” by some carriers.
4. For many employees, it may be best for their employer to discontinue their sponsored plans: the 9.5% affordability test. **See Exhibit 2**
5. Employees working 30 or more hours are now considered permanent full-time and those considered “variable hour” employees count towards full-time equivalents. **See Exhibit 3**
6. “Control group” through common ownership must be considered when totaling your full-time employee count.

Small group employer fall-out

1. Employers, who renewed early in 2013, are receiving a sizable rate increase as they renew in their ACA qualified plans.
2. Leading premium drivers for these renewals: community rating, 3 to 1 rate banding, gender neutral rating and the approximate 4.4% federal tax and fees.
3. Most carriers offer “age banded rates” versus composite or average rates. An older employee may cost three times that of a younger employee.
4. Employers who have historically “classed out” employees or who employ employees working less than 40 hours, but greater than 30 hours, must now offer affordable and minimum qualified plans.
**LARGE EMPLOYER MARKET (51 OR MORE EMPLOYEES)**

**The basic rules**

1. Groups averaging 50 to 99 full-time equivalent employees in 2014 must offer plans to all full-time employees starting 1/1/16. [See Exhibit 4]
2. Groups averaging over 100 full-time equivalent employees in 2014 must offer plans to all full-time employees starting 1/1/15.
3. The same “controlled group” or common ownership issue and 30 hour employees are in place for large groups.
4. Large employers with many part-time employees must keep track of these “variable hour” employees through their payroll system. Employers may choose up to a one-year measurement period to test the 30 hour rule.

**Large group employer fall-out**

1. Employers will juggle schedules to keep their current part-time employees under 30 hours.
2. Employers are adopting “define contribution” pricing in order to cap their cost.
3. Bronze level plans with deductibles as high as $5,000 are offered as base plans, and buy-up options are available.
4. IRS Code 6056 requires 2016 filing of Forms 1094-C and 1095-C for firms with greater than 50 full-time employees in calendar year 2015. [See Exhibit 5]
5. “Control group” through common ownership must be considered when totaling your full-time employee count.
“NECESSITY IS THE MOTHER OF INVENTION” –

GREEK PHILOSOPHER PLATO

The Las Vegas Metro Chamber of Commerce has announced their ERISA based, self-funded medical plans for its members with 10 employees or more. It will escape most of the 3.5% state and 4% federal tax plus eliminate the adverse community rating for employers with fewer than 50 employees.

New “skinny benefit” plans are being introduced that don’t include hospital benefits. They are being promoted as minimum value plans to the large employer. HHS calculator error is being scrutinized by the Treasury Department and these plans may be disallowed.

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