

October 27, 2015

Public Marketplace (Exchange) Third Open Enrollment Period

Presented by Benefit Comply

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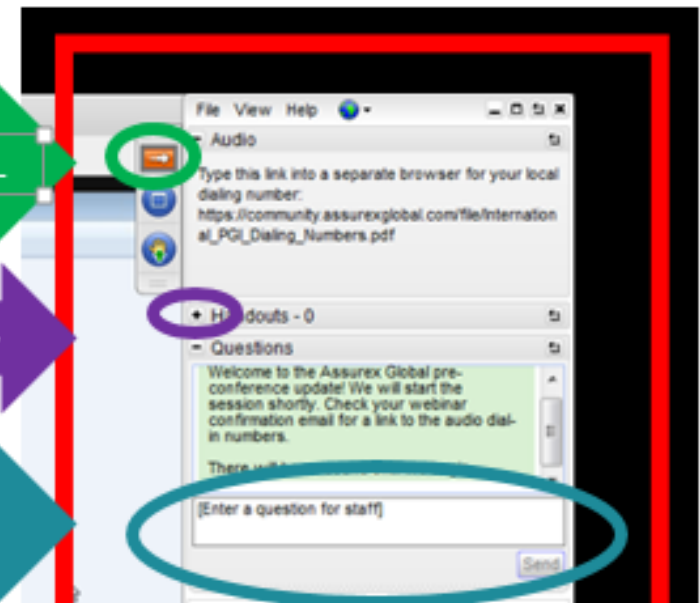
- Welcome! We will begin at 3 p.m. Eastern
- There will be no sound until we begin the webinar. When we begin, you can listen to the audio portion through your computer speakers or by calling into the phone conference number provided in your confirmation email.
- You will be able to submit questions during the webinar by using the “Questions” box located on your webinar control panel.
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- Starkweather & Shepley Insurance Brokerage
- Woodruff-Sawyer & Co.
- Wortham Insurance & Risk Management

Background

Background

- Public (State or Federal) Marketplace/Exchange Role
 - A Marketplace is where health insurance carriers sell individual and small group health insurance plans
 - Individual health insurance
 - Guaranteed issue, no medical underwriting
 - Virtually anyone can purchase individual health insurance through a Marketplace
 - Small group insurance
 - Small group program is called Small Business Health Options Program (“SHOP Marketplace”)
 - Most small group insurance is still sold outside the SHOP in most states
 - Only Vermont and Washington, D.C. require small groups to be sold through SHOP
 - Subsidy administration
 - Public Marketplaces will certify & administer ACA subsidies (premium tax credits and cost sharing reductions) for eligible individuals purchasing health insurance through the Marketplace
 - Determination of eligibility for expanded Medicaid vs. ACA subsidies

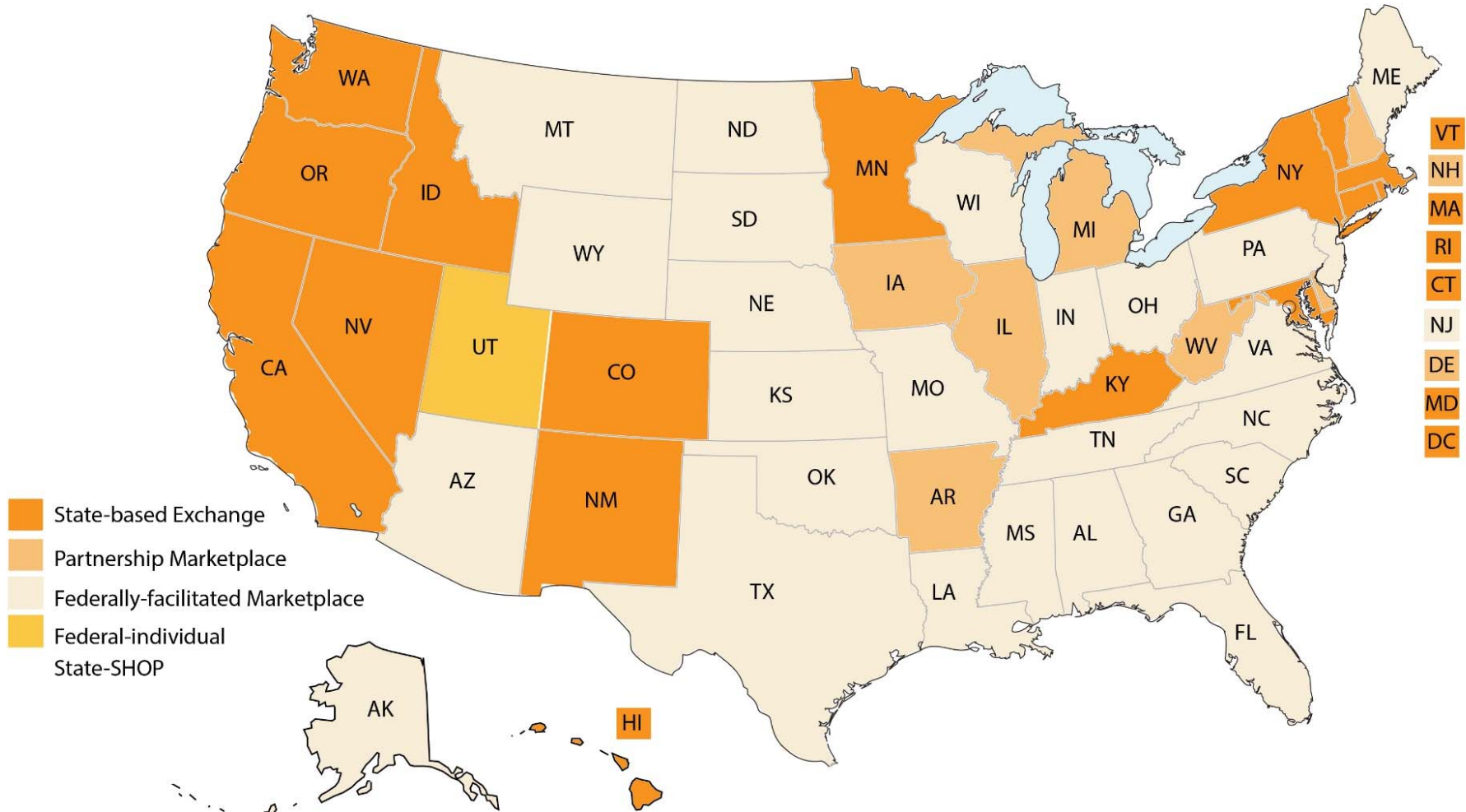
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Background

- **State Operated**
 - State operated technology, call centers, and customer support
 - State certification and regulation of carriers on the Marketplace
- **Federally Operated - Healthcare.gov**
 - Federally operated technology, call centers, and customer support
 - Federal certification and regulation of carriers on the Marketplace
- **State/Federal Partnership**
 - Federally operated technology, call centers, and customer support
 - Various levels of state control over certification and regulation of carriers selling on the Marketplace
- **Private Exchanges**
 - Privately operated technology giving employers various plan design and choice options (ACA subsidies not available in a private Exchange)

Background

- Where Do States Stand Today?



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Background

- What Happened In 2015 – Some Numbers

- Individual Health Insurance Plan Enrollments

Estimated # Individuals Eligible for Marketplace Coverage	Total 2015 Enrollment
27,438,000	9,949,079
Estimated # of Potential Marketplace Enrollees Eligible for Financial Assistance	Total Enrollees Receiving Subsidies
14,781,000	8,329,966

- Source Kaiser Family Foundation @ kff.org/other/state-indicator/state-marketplace-statistics-2015
- SHOP Small Group Plan Enrollments
 - CMS estimates less than 200,000 enrollees

Marketplace Enrollment 2015-2016

Marketplace

- Next Open Enrollment Period
 - Individuals can enroll in plans from Nov. 1, 2015 – Jan. 31, 2016
- Coverage Effective Dates
 - Enroll by Dec. 15, 2015 to have coverage effective Jan. 1, 2016
 - In general:
 - Enroll between the 1st and 15th days of the month for coverage first day of the next month
 - Enroll between the 16th and the last day of the month for coverage the first day of the second following month (i.e. Dec. 16 enrollment effective Feb. 1)

Marketplace

- Special Enrollment Period
 - Special events that would allow a mid-year enrollment include:
 - Losing other minimum essential coverage
 - Gaining or becoming a dependent through marriage, birth, adoption or placement for adoption
 - Becoming newly eligible/ineligible for the premium tax credit or experiencing a change in eligibility for cost-sharing reductions
 - Gaining status as a citizen, national or lawfully present individual in the U.S. (not previously lawfully present)
 - Experiencing an error in enrollment
 - New QHPs offered through the Marketplace becoming available as a result of a permanent move

ACA Subsidies

ACA Subsidies

- ACA “Subsidies”
 - Available to individuals with household income 100% - 400% Federal Poverty Level (FPL)
 - “Advanceable” Premium Tax Credit
 - Qualified individuals will pay no more than a fixed maximum contribution depending on household income
 - Individual can choose to have credit applied monthly to plan premium or collect at the end of year when filing taxes
 - Cost Sharing Reductions
 - Lower deductibles and out-of-pocket costs available to individuals with incomes less than 250% of FPL

King v Burwell

- Dispute over Subsidies through Federal Run Marketplace
 - Federal courts had issued differing opinions on validity of subsidies in federal Marketplaces
- Supreme Court - King vs. Burwell
 - In a 6-3 decision, the Supreme Court has ruled that subsidies will continue to be available to individuals who purchase health insurance plans in states that use the federal Marketplace
 - A ruling for the challengers could have significantly impacted ACA employer requirements and caused uncertainty in some states' health insurance markets
 - Employer impact of the decision
 - No change in employer responsibility or reporting requirements for now
 - Applicable large employers (ALEs) should continue to move forward with their efforts to comply with §4980H shared responsibility rules and ACA reporting requirements

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ACA Subsidies

- Subsidies for Individuals Eligible for Employer Sponsored Plans
 - “Subsidies” not available to individuals eligible for “affordable” employer sponsored “minimum value” coverage
 - Minimum Value = plan with actuarial value of at least 60%
 - Affordable = employee contribution for single (employee-only) coverage is no more than 9.56% (9.66% in 2016) of household income
 - Affordability for family members
 - An employee’s family member qualification for subsidy is based on the employee’s contribution for employee-only coverage
 - This approach will significantly limit the number of family members who will be eligible for subsidized coverage
 - Anyone enrolled in a minimum essential coverage plan (MEC), even if it is not minimum value (MV), is ineligible for a subsidy

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ACA Subsidies

- Household Income
 - Modified adjusted gross income (MAGI) of individual, spouse and tax dependents in household
 - For most taxpayers MAGI equals adjusted gross income (AGI)
 - Found on Line 4 on a Form 1040EZ, or Line 37 on a Form 1040
 - MAGI includes adjustments for foreign earned income and earnings on tax free investments
 - The employer will never know an employee's household income
 - AGI includes "above the line" adjustments such as alimony payments, HSA contributions, self-employed business profits and losses, etc.

Affordability

- There are Two Different Types of Affordable
 - For an individual's subsidy eligibility, coverage is "affordable" if the employee's required contribution for single coverage does not exceed 9.56% (9.66% in 2016) of the employee's household MAGI
 - For the employer safe harbors, coverage is affordable if the employee's required contribution for single coverage is less than 9.5% (not 9.56%) of one of the three employer safe harbors
 - Wage Safe Harbor (Form W-2)
 - Rate of Pay Safe Harbor
 - Federal Poverty Level Safe Harbor
 - Affordable and Not Affordable at the Same Time!
 - An individual can qualify for a subsidy because the employee contribution is deemed unaffordable using household income, but if the employer can show that coverage is affordable using one of the safe harbor methods, the employer will not be liable for a 4980H(b) payment

Affordability

- ACA “Affordability” Example

- Employer’s lowest hourly rate of pay is \$10 per hour
 - Using the rate of pay safe harbor, the employer decides to set employee contributions for single coverage at \$123.00
 - $130 \text{ hours} \times \$10/\text{hr} = \$1300$, then $\$1300 \times .095 = \123.50
- One full-time employees earns \$1300 per month but has a \$300/mo. alimony payment
 - Alimony payments are an “above the line” deduction that reduces an individual’s AGI
 - This individual's monthly AGI = \$1000, and the contribution for single coverage (\$123.50) equals 12.35% of household income
- This employee would qualify for a subsidy if purchasing individual health insurance through a public Marketplace, but the employer would face no 4980H(b) liability due to meeting the rate of pay safe harbor

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ACA Subsidies

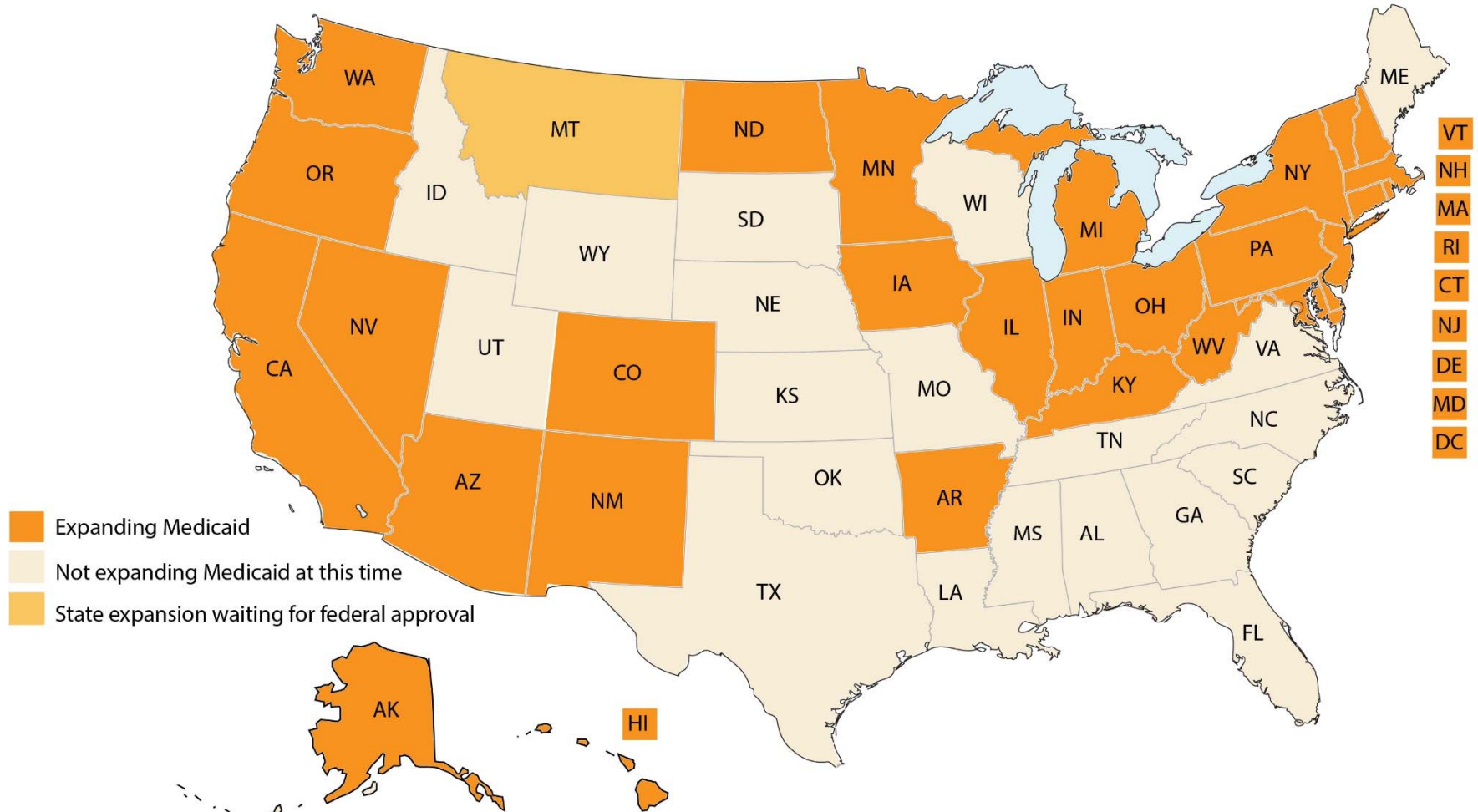
- Subsidy Process

- Individuals must apply for health insurance coverage through a public (state or federal) Marketplace
- Marketplace will collect income and employer coverage data and certify if individual is eligible for a subsidy
 - Marketplace must notify an employer if an employee is certified (more later)
- Marketplace will administer premium tax credits
 - Individual can choose to collect tax credit in advance on a monthly basis or collect when tax return is filed
 - Individual will pay only their portion of premium
 - Marketplace will facilitate payment of tax credit to carrier
- Tax credit will be “settled up” when individuals file their tax returns

Medicaid Expansion

Medicaid Expansion

- Where Do States Stand Today?



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Medicaid

- **Employer Strategies**
 - Employers may want to communicate Medicaid eligibility to employees in states with expanded Medicaid
 - No employer penalty for an employee on Medicaid
- **Health Insurance Premium Payment (HIPP) Programs**
 - States are permitted to provide subsidies to Medicaid eligible individuals to enroll in employer plan instead of taking regular Medicaid benefits
 - Individual must be eligible for employer plan
 - 24 states have implemented a HIPP program
 - Programs vary from state to state

Employer Plan Issues

Marketplace Notice to Employers

- Beginning in 2016, Federal Marketplace will Notify Employers when an Employee Qualifies for a Subsidy
 - State run Marketplaces will also begin to implement the same process, but timing and details will vary from state to state
 - Employers can appeal employee's subsidy eligibility
 - Employer has 90 days from the date of the notice to request an appeal
 - Employer appeal request form will be available on <https://www.healthcare.gov/marketplace-appeals>
 - An employer must mail or fax appeal request
 - If employer appeals an employee's subsidy and employee is actually ineligible for tax credits, the employee may have to pay back some or all of subsidy

Marketplace Notice to Employers

- How does the Notice Effect Employers?
 - Employer liability for 4980H(b) shared responsibility payment is handled separately by the IRS and is not based on whether or not the employer received a notice from the Marketplace
 - IRS may still apply shared responsibility to employers when applicable, even if Marketplace has not notified employer
 - Employers do not need to file an appeal but advantage of appeal is removing ineligible employees from receiving subsidy
 - May help avoid shared responsibility payment reconciliation with IRS later

Employer Notice to Employees

- Employer Notice of Marketplace to Employees
 - Distribution requirements
 - Required to be provided to all employees no later than Oct. 1, 2013
 - This was a one time requirement - no annual requirement to send this notice
 - Thereafter required for all new hires, within 14 days of hire (full-time and part-time)
 - DOL Model Notice
 - www.dol.gov/ebsa/faqs/faq-noticeofcoverageoptions.html

Employer Plan Issues

- Employee Communication Strategies
 - Since most employees eligible for an employer sponsored plan will not be eligible for ACA subsidies, how do we best communicate that to them?
 - Work backwards – take the employee contribution for single coverage on your cheapest minimum value plan and calculate the household income that would be necessary to qualify for a subsidy...
 - Example:
 - Employee contribution for single coverage on cheapest minimum value plan = \$150 per month
 - $\$150 \times 12 = \1800 employee contribution per year
 - $\$1800 \div .0956 = \$18,828.45$

If the employee has an annual household income over \$18,828.45, the employee and their family will not be eligible for subsidies when purchasing individual health insurance on the public Marketplace.

Employer Plan Issues

- Section 125
 - IRS issued guidance allows prospective pre-tax election changes for ACA related events
 - Employer can optionally allow termination of coverage and change in employee's election in two cases:
 - Employee has change in status to part-time, but would not lose eligibility under plan due to ACA rules (e.g. in a stability period), and employee intends to enroll in another plan no later than the first day of the second month following the revocation
 - The participant chooses to enroll for a Marketplace plan during annual open enrollment period, or qualifies for a special enrollment period, and intends to enroll in the Marketplace plan no later than the day following the revocation of coverage
 - Employer may rely on representation of the participant for purposes of intent to enroll in another plan
 - 125 plan must be amended by the last day of the plan year in which the elections are allowed

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Health Insurance Marketplaces

- COBRA
 - DOL issued model language to use in COBRA notices encouraging COBRA qualified beneficiaries (QBs) to explore coverage through a Marketplace
 - Loss of employer coverage is a Marketplace special event, so individuals may be able to enroll outside the annual enrollment period
 - Subsidy eligibility
 - COBRA QB may qualify for subsidized coverage through the Marketplace if they decline COBRA continuation
 - If an individual elects COBRA continuation:
 - They will be ineligible for subsidies since they are covered by an employer plan
 - They cannot enroll in an individual plan until next Marketplace open enrollment, upon qualifying for special enrollment, or COBRA expires

Health Insurance Marketplaces

- COBRA
 - Employers must still offer COBRA, but should aggressively communicate individual health insurance options through the Marketplace to all COBRA QBs
 - Employers should also consider a communication to existing COBRA QBs about annual Marketplace open enrollment period
 - Including divorced spouses and children aging off the employer plan, not just terminated employees
 - May be a better option for the individual
 - Keeps COBRA QBs off employer plan

One Note on Employer Reporting

Providing Employees with a 1095

- **Background**

- All applicable large employers (ALE), both fully-insured and self-funded, and small employers who offer a self-funded plan must provide either a 1095-C or 1095-B to certain employees
- Insurance companies will provide a 1095-B to employees covered by a fully-insured plan
- Employees need these forms as documentation when filing their 2015 tax returns, but they do not need to include the form with their taxes

Which Forms Will Employee Receive?

ALE Fully-Insured Plan	ALE Self-Funded Plan
<p>Form 1095-C from Employer</p> <ul style="list-style-type: none">• Part I - Employee & Employer Info• Part II - Offer of Coverage (eligibility) Info <p>1095-B from Insurance Company</p> <ul style="list-style-type: none">• Information on covered individuals	<p>Form 1095-C from Employer</p> <ul style="list-style-type: none">• Part I - Employee & Employer Info• Part II - Offer of Coverage (eligibility) Info• Part III - Information on Covered Individuals <p>*Note Form 1095-B may be used for non-employees covered under a self-funded plan</p>
Small Employer Fully-Insured Plan	Small Employer Self-Funded Plan
<p>1095-B from Insurance Company</p> <p>No reporting required by the employer</p>	<p>Form 1095-B from Employer</p> <ul style="list-style-type: none">• Info on Covered Individuals

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Providing Employees with a 1095

- How will Individuals Use 1095s?
 - Individual mandate
 - Individuals will need to certify they have minimum essential coverage to avoid paying the individual mandate tax. The 1095 provides documentation if the individual is audited. Individuals do not need to send in a copy of the 1095 to file taxes.
 - 1095-C Part III or 1095-B from the employer if covered by a self-funded plan
 - 1095-B from the insurance company if covered by a fully-insured plan
 - Determining eligibility for tax credits when purchasing individual health insurance
 - The IRS will use the 1095-C from employers (fully-insured and self-funded) to determine eligibility of individuals who are receiving ACA subsidies when purchasing individual health insurance
 - Individuals eligible for affordable minimum value employer sponsored coverage (or enrolled in a minimum essential coverage plan) are not eligible for the subsidies

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Thank you.

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