

November 17, 2016

# **How Will the Election Impact Employee Benefits Regulations & a Look Forward to 2017**

Presented by Benefit Comply

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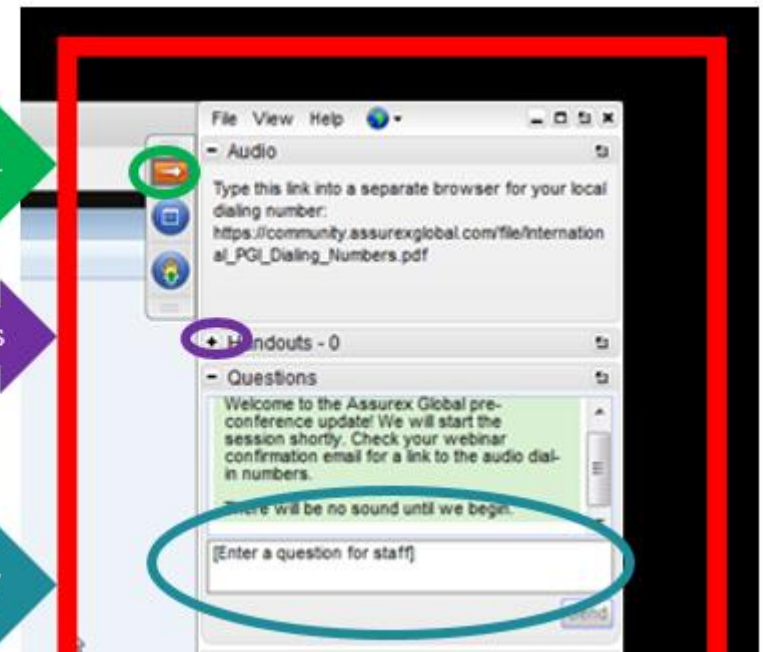
- Welcome! We will begin at 3 p.m. Eastern
- There will be no sound until we begin the webinar. When we begin, you can listen to the audio portion through your computer speakers or by calling into the phone conference number provided in your confirmation email.
- You will be able to submit questions during the webinar by using the “Questions” box located on your webinar control panel.
- Slides can be printed from the webinar control panel – expand the “Handouts” section and click the file to download.



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- Wortham Insurance & Risk Management

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# ELECTION 2016

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# How Changes are Made

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# How Changes Are Made

- **Statutory vs. Regulatory vs. Agency Guidance**
  - Speed and Scope of changes will depend on type of rule
  - **Statutory Based**
    - Full time = 30 hours
    - §4980H employer shared responsibility penalties
    - 90 Day waiting period
    - Cadillac tax amounts
  - **Regulatory Based**
    - Look back measurement period method of defining full time
    - Most employer reporting details
    - Cadillac tax details (plans, applicable cost. etc.)
  - **Guidance Based**
    - Prohibition on employers paying for individual health insurance premiums

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# Recent Republican Initiatives

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# Ryan's Plan

- Paul Ryan Introduced a Republican Plan to Replace the ACA
  - The plan proposes to retain a number of elements of the ACA:
    - Restricting pre-existing limitations
    - Prohibiting insurance companies from rescinding coverage
    - Allowing coverage on parents' plans for adult children to age 26
  - Examples of some of changes to the ACA proposed in the plan include:
    - The elimination of Medicaid expansion, replaced by block grants to states.
    - Repeal of the "Cadillac" tax, replaced by a limit on the amount of benefits employers can provide to employees on a tax-free basis.
    - Elimination of ACA income-based subsidies for purchase of individual health insurance, replaced by an age-based tax credit for those without access to employer sponsored insurance.
    - Allowing employers to pay for individual health insurance for employees.
    - New rules that would make it easier for small employers to join together in pools to provide insurance to employees.



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# 2015 Republican ACA Repeal Legislation

- 2015 legislation passed Congress – Vetoed by Pres. Obama
  - Designed to pass using budget reconciliation
    - Repeal of tax credits for those who purchase individual health insurance. These tax credits would be phased out over two years.
    - Repeal of the small business tax credit that provides a tax credit to some small businesses for the purchase of group insurance for their employees.
    - Repeal of the individual mandate.
    - Repeal of the employer shared responsibility rules.
    - Repeal of Medicaid expansion.
    - Repeal of medical device tax, health insurance tax imposed on health insurance companies, the “Cadillac” tax, and the payroll tax increase imposed on individuals making over \$250,000.

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## Other Changes Possible

- Both Ryan's plan and President-elect Trump have proposed the expansion of health saving accounts (HSAs).
- Possible changes to small group insurance rules
  - Changes to current community rating rules
  - Allowing insurance companies to sell policies "across state lines."

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# Impact of Possible Changes on Employers

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# Impact of Possible Changes on Employers

- Elimination of Employer §4980H Shared Responsibility Rules
  - §4980H(a) - Employer must offer minimum essential coverage (MEC) to 95% of full-time employees or else penalty = \$180.00/mo. (\$2160/yr) times total number of full-time employees not counting first 30
  - §4980H(b) - If employer offers coverage to full-time employees, but coverage is “unaffordable” or not “minimum value” or else penalty is \$270/mo. (\$3240/yr) for each full-time employee who purchases subsidized coverage through a public Marketplace/Exchange
- Employer Reporting
  - Reporting used for more than employer shared responsibility rules
  - Form 1095s (individual statements) must be provided to employees and participants by **Jan. 31**
    - Very little chance (but not impossible) for a formal change could be made prior to this deadline...
  - Form 1094 and Form 1095s must be filed with the IRS by **Feb. 28 (Mar. 31, if filed electronically)**
    - More of a chance a formal change could be made prior to this deadline??

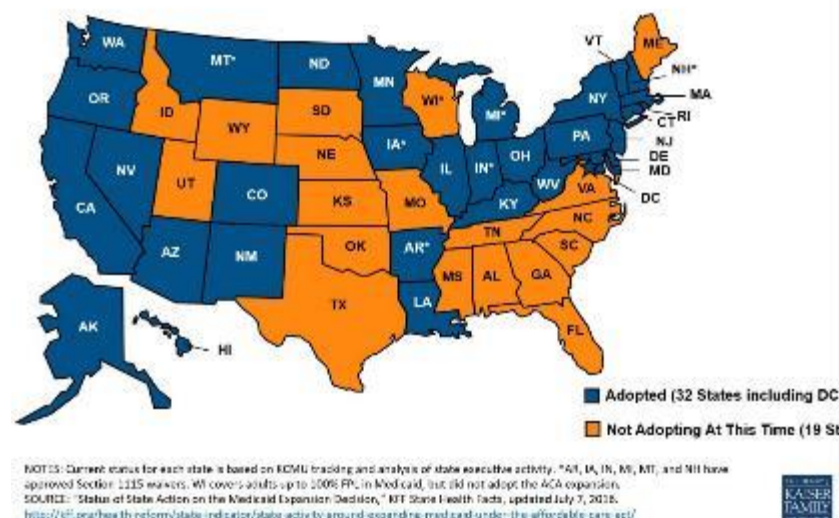
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# Impact of Possible Changes on Employers

- Rollback of Medicaid Expansion

- Employers with low wage workers in states with expanded Medicaid have seen a reduction in plan enrollment as those employees choose to get health care through the Medicaid system.

Current Status of State Medicaid Expansion Decisions



- Possible Small Employer Changes

- Changes to Community Rating Rules
- Allowing employers to pay for individual health insurance policies
- Small employer pooling
- Selling insurance “across state lines”

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# The Billion Dollar Question

Changes to the Tax Treatment of Employer Sponsored Benefits

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# Some Things Are Up In the Air

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# Employer §4980H Liability

- IRS Collection of 2015 §4980H Payments
  - IRS is combining data from employer reporting, employee tax information, and exchange filings – IRS will then contact employer with “tentative” assessment
    - From § 4980H regulations
      - *The IRS will contact employers to inform them of their potential liability and provide them an opportunity to respond before any liability is assessed or notice and demand for payment is made.*
- Will IRS enforce rules for 2015 plans?



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**Thank you.**

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