

U . S . C H A M B E R O F C O M M E R C E



The Affordable Care Act

Changing Policies:

Where We Are & What's Next?

Overview

- Where were we?
- How did we get here?
- Where is here?
- What now?



Where Were We?

Historically, some markets have worked...

And other markets have not.

Law's solution: "Shared Responsibility"

How Did We Get Here?

What was “The Plan”

- Expand ways to get coverage:
 - Exchanges – premium tax credits
 - Medicaid – expand eligibility
- Get more people covered:
 - Individual mandate
 - Employer mandate
- Change what coverage looked like:
 - Insurance reforms – benefits and rating rules

“We have to pass the law to know what’s in it”

- Law Enacted – March 23, 2010
- Supreme Court Ruling – June 28, 2012
- Election – November 6, 2012
- Regulations – Defining the vague statutory provisions

So What Is In It?

Reading the Statute Won't Tell What You Need to Know For Many Reasons On Many Issues:

- Employer Mandate
- Medicaid Expansion
- Health Insurance Exchanges

*They passed it... so, do we know what's in it?
2,700 pages of statute = 20,000+ pages of regulations....*



Where Is “Here”?

“The Plan”

- Expand ways to get coverage
 - Exchanges – premium tax credits
 - Medicaid – expand eligibility
- Expand coverage
 - Employer mandate
 - Individual mandate
- Change what coverage looks like
 - Insurance reforms – benefits and rating rules

Need young & healthy enrollees

Current “Reality”

“Heck No” & “Glitches” & SHOP delay
“Not Required”

Enforcement Delayed

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What Now?

- Exchanges – Open for Business?
- Medicaid Expansion – Creative Solutions Continue
- Employer Mandate Delay
- *“Inside-the-Beltway Drama”*
 - Delivering a Broken Promise: Policy Cancellations
 - CBO Report: Labor Force Will Decrease
 - Employer Mandate Delay and Transition Relief
 - Is the Employer Mandate Necessary?
- Political Shenanigans

Most Critical Provision for Business: The Employer Mandate

In 2014, employers may be fined regardless of whether they offer coverage or not.

- **WHO...** Applicable large employers
- **WHAT...** Affordable coverage that provides minimum value
- **TO WHOM...** Full-time (FT) employees (and dependants)
- **OR ELSE ...** May have to pay a penalty

Employer Mandate In A Nutshell

“Applicable large employers” = WHO?

- 50 or more full time equivalents (FTEs)
- FT employees + $\frac{\text{aggregate \# of hrs of PT employees for a month}}{120}$

Minimum essential coverage = WHAT?

- Affordable for non-Medicaid eligible individuals:
 - 100-400% FPL, employee’s cost of self only coverage < 9.5% HHI
- Minimum value:
 - Plan has actuarial value of 60%

Full-time (FT) employees (and dependants) = TO WHOM?

- Employee working > 30 hours per week, averaged over a month for more than 120 days/yr (excludes seasonal workers)
- And children up to age 26

Penalty if FT employee “free rides” = OR ELSE?

- Amount will depend on employer’s actions: insufficient coverage or no coverage offered

“Large” Employer Not Offering Coverage

- Will I be assessed the penalty?

Yes, if I employ

- 50 or more FTEs;
- At least 1 FT employee (with household income of 133-400% FPL) qualifies for a premium assistance credit
- At least one such eligible employee uses the credit to purchase coverage in the exchange, and
- *Have more than 30 FT employees*

- How will the penalty be calculated?

- $\$2,000 \text{ per year} \times (\text{total number of full time employees} - 30) = \text{Penalty}$

“Large” Employer Offering Coverage

- Coverage offered must be “minimum essential coverage”
 - Must be affordable; and
 - Must provide minimum valueOr else => penalty!
- How will the penalty be calculated?
 - \$3,000 (pro-rated) per FT employee receiving premium assistance creditOR
 - \$2,000 x (Total # of FT employee - 30 FT employees)

As Passed: Many Outstanding Questions For Employers

“What”

What is affordable coverage? (9.5% of Household Income)

“To Whom”

Which employees are full-time?

- Measurement & Stability Period

What is meant by “(and dependants)”?

- Children under age 26 years

How are seasonal employees assessed?

Employer Mandate Delay

July 2, 2013, Treasury Blog:

*“We have listened to your feedback.
And we are taking action.”*

Rational given...Regulations not ready

Bottom line:

Delaying the employer mandate penalties for 1 year

+ Keeping the individual mandate,

+ Keeping the premium tax credits...

Allowing personal attestation for individuals = huge cost

Employer Mandate “Transition Relief” In 2015

To be eligible for relief in 2015, employer must:

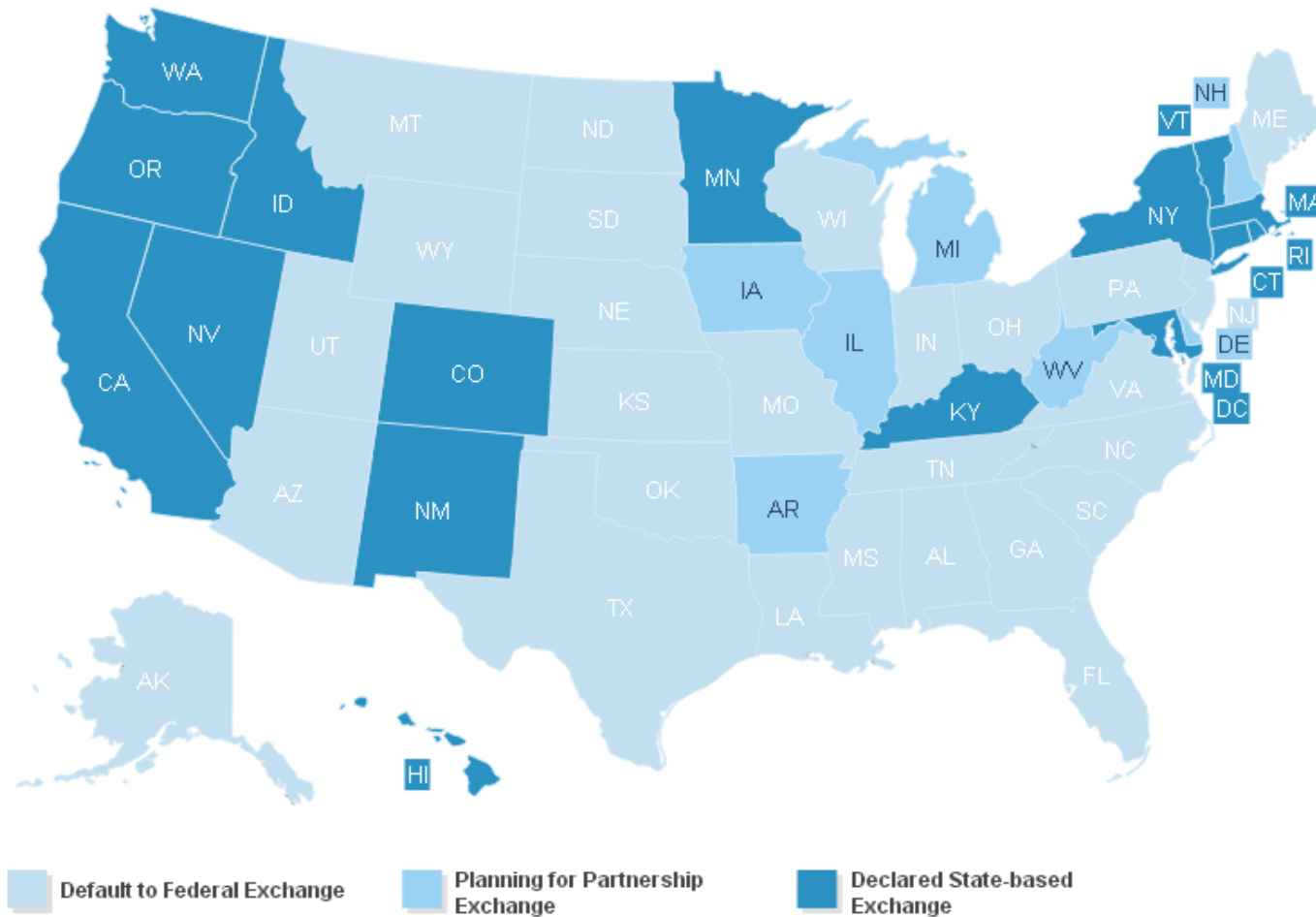
- Employ at least 50 but fewer than 100 FTEs,
- Maintain workforce and hours of service,
- Maintain previously offered coverage, and
- Certify that it meets these requirements.

Federal Law

Varied State Adoption

- Exchanges
- Medicaid
- “Grandmothered Plans”

Exchanges – Open For Business? Depends.... You, Me, or Us



Federal Exchange: 27 States

State-based Exchange: 17 States

Partnership Exchange: 7 States

State Decisions For Creating Health Insurance Exchanges, as of May 28, 2013

Exchanges & Employers

Three options:

- State-Based Exchange
- State Partnership Exchange
- Federally Facilitated Exchange (FFE)

Very Political

- Ownership/Accountability
- Premium Subsidies/Tax Credits
- Employer Choice in SHOP (Small Business Health Options Program)

Employers & Exchanges: Three Ways to Engage

- Not At All
- Indirectly (If Possible)
- Directly Via SHOP

Medicaid Expansion & Employers

Unclear what states will do:

- Supreme Court: The *majority* of the law stands...
- But states cannot be required to expand Medicaid

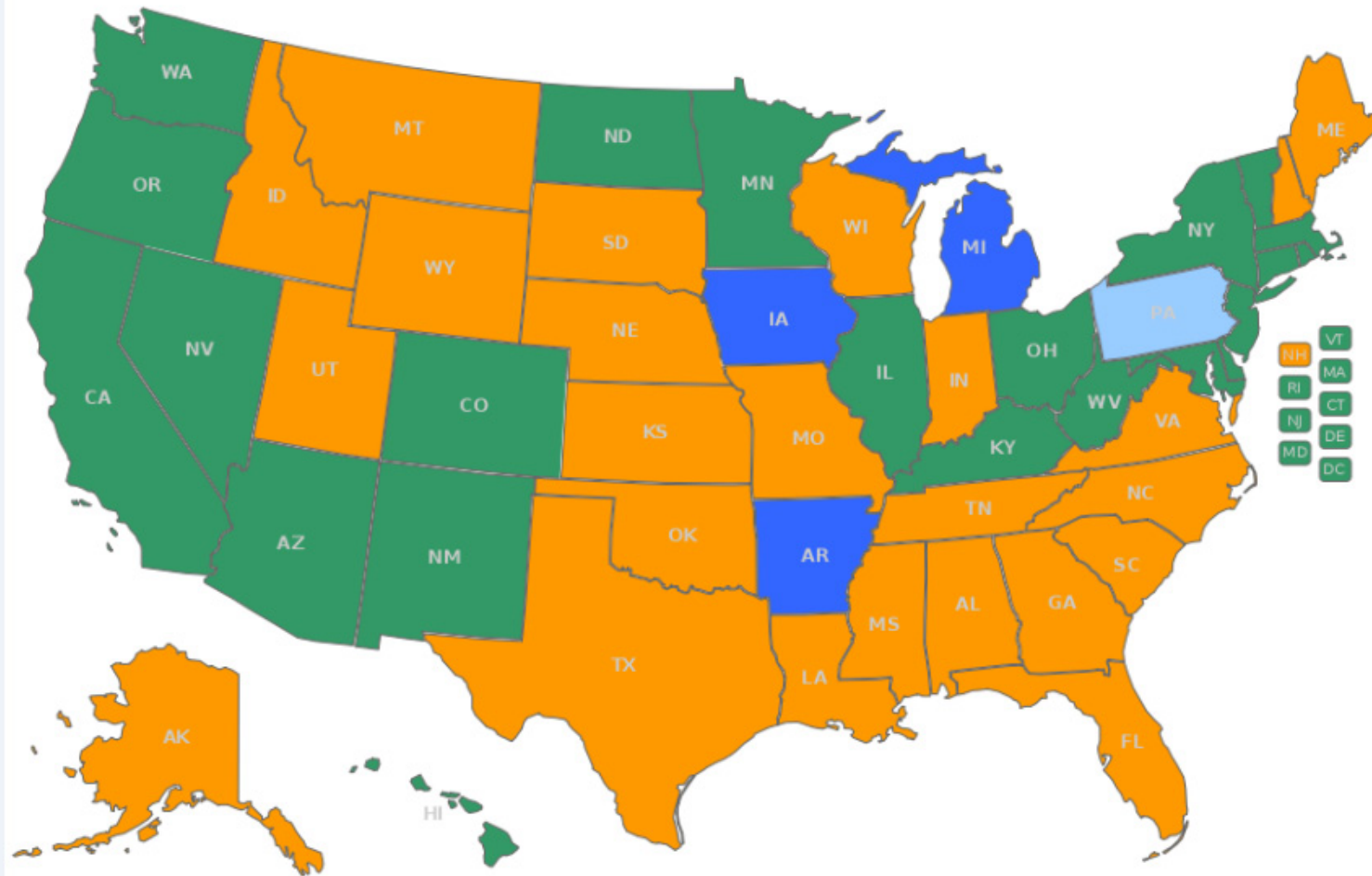
Decision will affect employers:

- May increase burden/penalty on employers

Medicaid Expansion: Yes, No, Maybe, if...

Map: Where States Stand on Medicaid Expansion Decisions

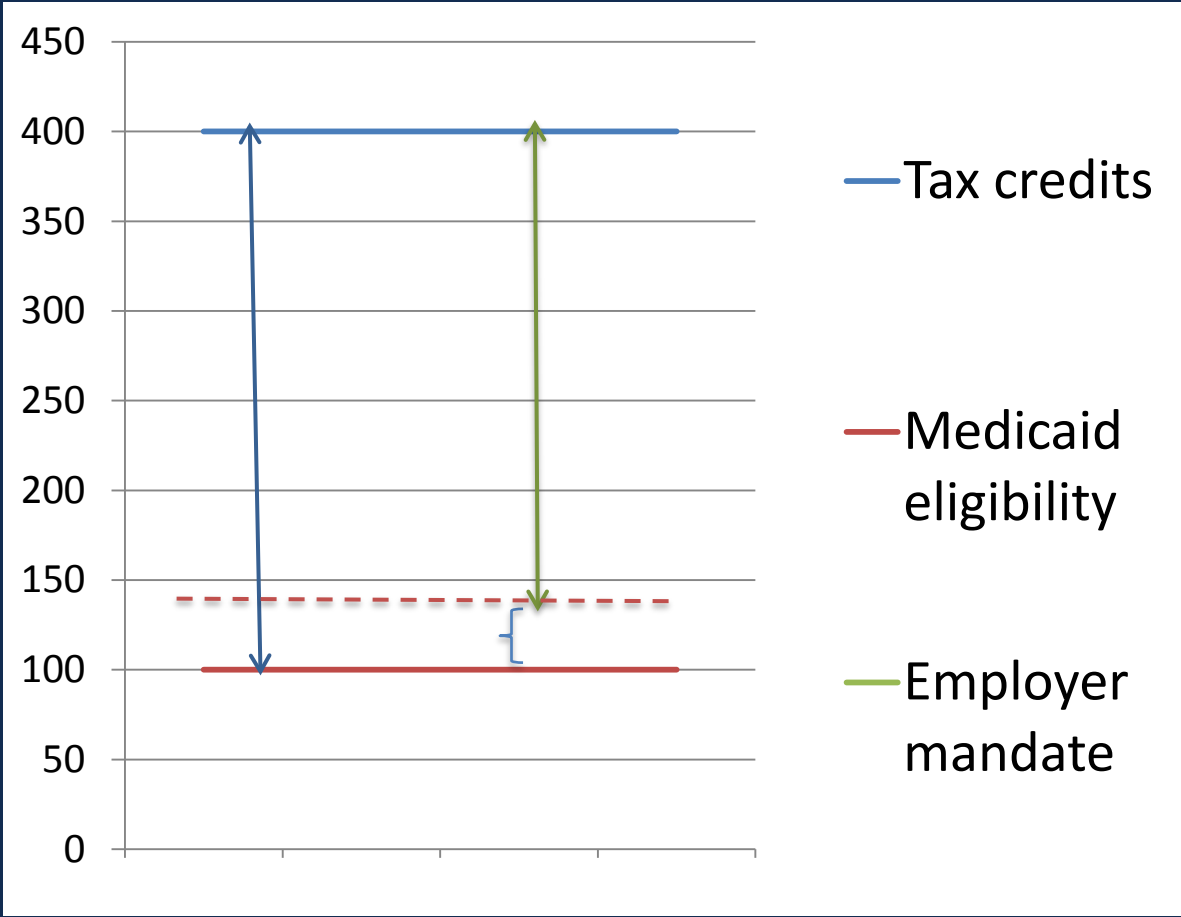
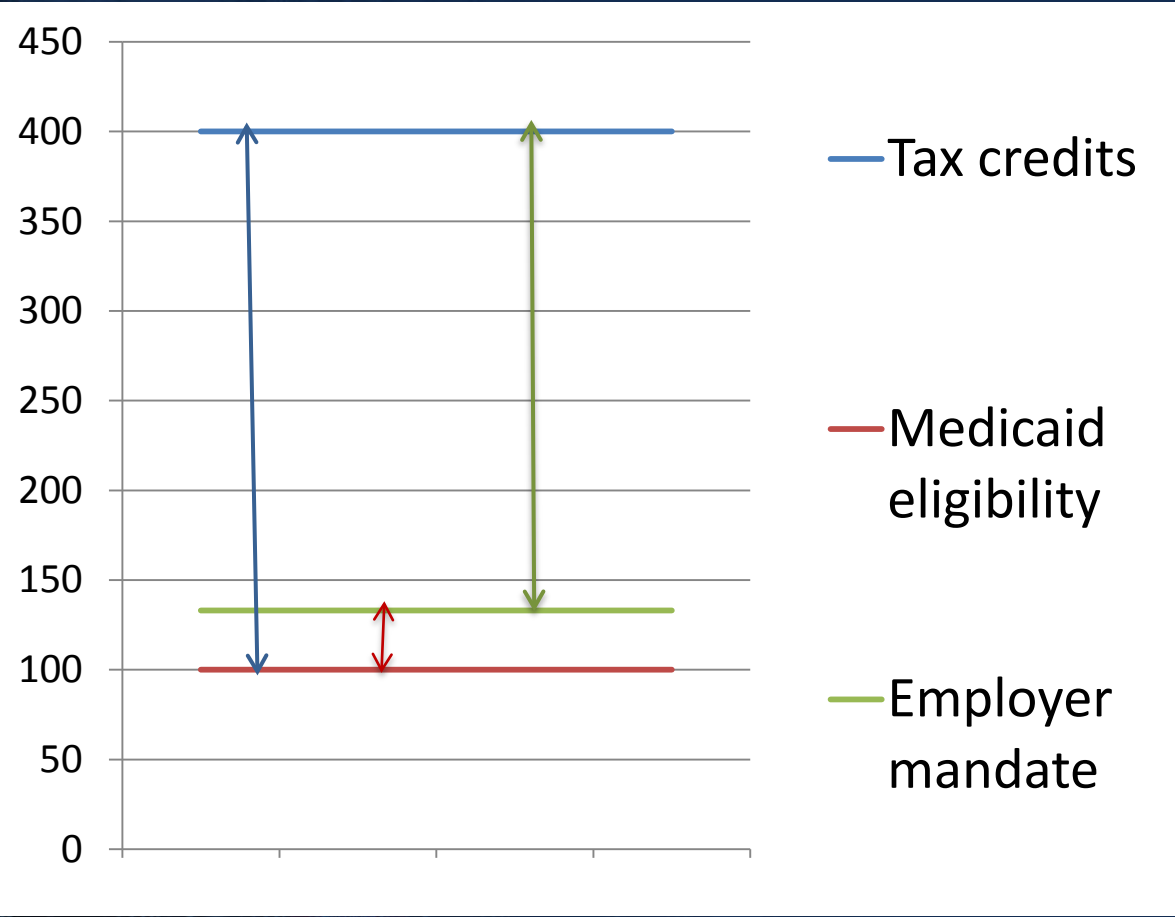
*Map updated February 12, 2014



Key:

- 24 states are not expanding Medicaid in 2014
- 23 states are expanding Medicaid in 2014
- 3 states are expanding Medicaid in 2014, but using an alternative to traditional expansion
- 1 state with Medicaid expansion waivers pending approval from CMS

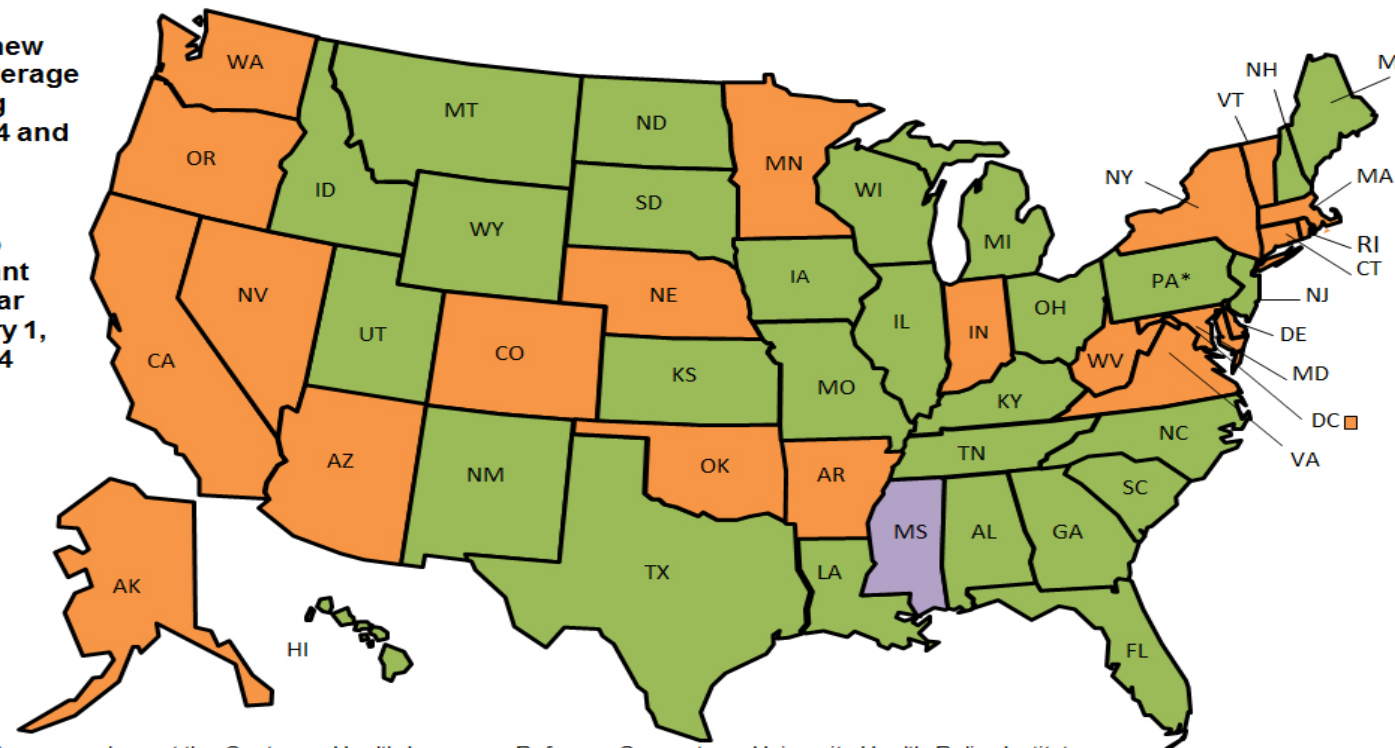
As Enacted vs. Post SCOTUS



Oh, You Wanted to Keep Your Plan...?

State Decisions Related to the President's Policy Fix for Health Plan Cancellations

- Will allow carriers to renew non-ACA compliant coverage for a policy year starting between January 1, 2014 and October 1, 2014
- Will not allow carriers to renew non-ACA compliant coverage for a policy year starting between January 1, 2014 and October 1, 2014
- Decision Unknown



Source: Data collection and analysis by researchers at the Center on Health Insurance Reforms, Georgetown University Health Policy Institute.

* In Pennsylvania, the decision to allow carriers to renew non-ACA compliant coverage for a policy year starting between January 1, 2014 and October 1, 2014 only applies to the individual market. The state has not yet decided whether this decision will apply to plans in the small group market.

“Inside-the-Beltway Drama”

- Fulfill a Broken Promise?

“I am sorry that they are finding themselves in this situation based on assurances they got from me...”

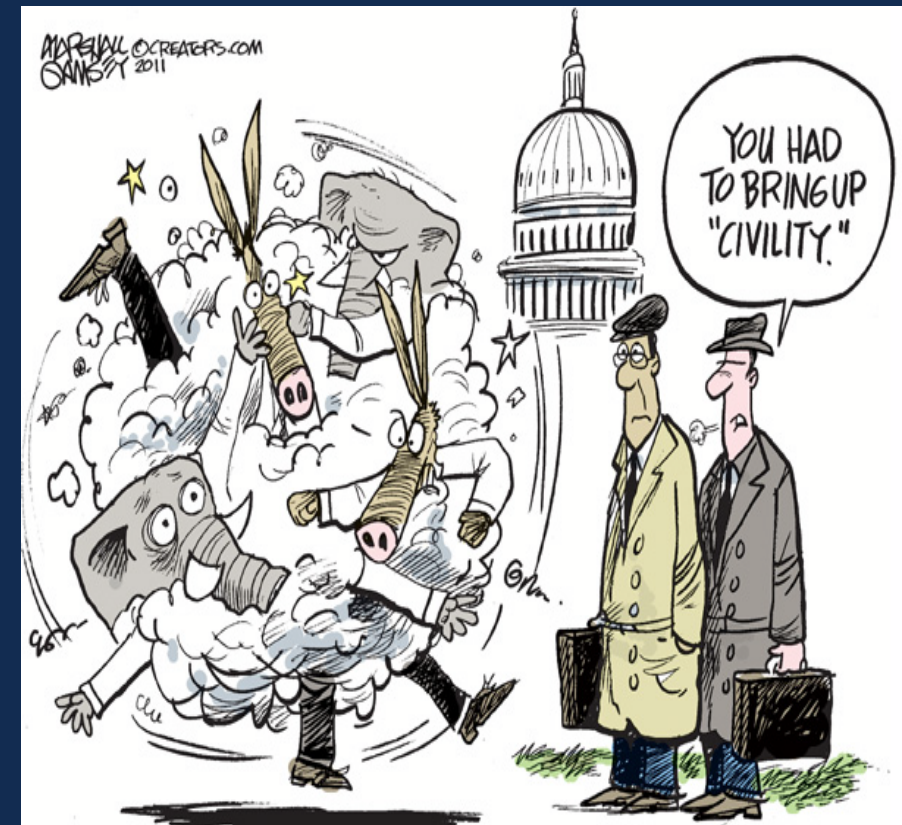
- CBO Report

Driving 2.5 million people out of the workforce by 2014

- Employer Mandate

2014 Delay & 2015 Transition Relief

- Individual Mandate Delay?



Moving Forward

- Restore
- Delay
- Repeal



Now What?

- Full Repeal Unlikely
- Educate
- Focus on Affordability
 - EHB
 - Health Insurance Tax
 - Age-Rating
 - State-Based Exchange
 - Employer Mandate
 - Medical Device Tax
- Alleviate Burdens – Safe Harbors, etc
- Technical Corrections

Additional Resources

US Chamber of Commerce Health Reform Law 101

www.uschamber.com/health-reform

Thank You

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Where are the States?

Committed to a state-based exchange: 18 states & D.C.

Planning for federal involvement: 33 states

- FFE in 20 states
- SPE in 13 states

New Battlefield: Subsidies and Federally Facilitated Exchanges

“Taxes, Anyone?”



- \$836.3 billion/10 years (2013-2022)
 - 10% excise tax on tanning services \$1.5 billion/10 yrs (2010)
 - Modification of tax treatment in certain health organizations \$400.0 million/10 yrs (2010)
 - Codify economic substance doctrine \$5.3 billion/10 yrs (2010)
 - Repeal of “black liquor” credit \$15.5 billion/10 yrs (2010)
 - Conforming definitions for medical expenses \$4.0 billion/10 yrs (2011)
 - Additional tax on distributions from HSA’s and MSA’s other expenses \$4.5 billion/10 yrs (2011)
 - Fee on manufacturers and importers of drugs \$34.2 billion/10 yrs (2011)
 - Corporate reporting requirements Repealed (2012)
 - Limit flexible spending in cafeteria plans to \$2,500 \$24.0 billion/10 yrs (2013)
 - Fee on medical device manufacturers \$29.1 billion/10 yrs (2013)
 - Medicare tax on HI earners \$317.7 billion/10 yrs (2013)
 - Eliminate Part D subsidy deduction \$3.1 billion/10 yrs (2013)
 - Limitations on executive compensation \$800.0 million/10 yrs (2013)
 - 10% medical expense deduction \$18.7 billion/10 yrs (2013)
 - Fee on insurance providers \$101.7 billion/10 yrs (2014)
 - Free Rider Penalties \$106.0 billion/10 yrs (2014)
 - Individual Mandate \$55.0 billion/10 yrs (2014)
 - 40% excise tax on Cadillac plans \$111.0 billion/10 yrs (2018)