



# EVENTS AND TRAININGS

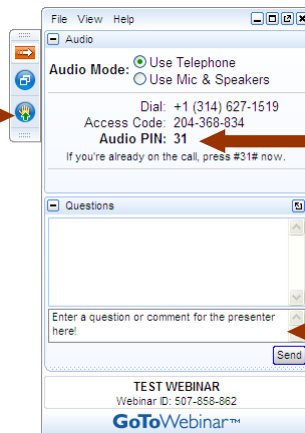
upcoming CAPLAW trainings on the legal and financial issues critical to CAAs



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# **Employee Benefits Check-Up: Are You Ready For The Affordable Care Act?**

**Presented By**

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## **Healthcare Reform**

**Today's Agenda:**

- 1. Current and Forthcoming Compliance Items**
- 2. Play or Pay Guidance**
- 3. What Employers Should be Doing Now**

# Healthcare Reform

## Healthcare Reform

### Current and Forthcoming Compliance Items

# Healthcare Reform

## Healthcare Reform Compliance Items—

### Reporting Cost of Coverage on W-2s

- Applies to 2012 W-2s to be distributed in January of 2013
  - Exempt if employer filed less than 250 W-2s in 2011
- Includes major medical and generally any other nontaxable “group health plan” coverage for which COBRA coverage is offered, other than stand-alone dental and vision coverage
- Reported cost is total cost, including employer and employee portions

# Healthcare Reform

## Healthcare Reform Compliance Items—

### Medical Loss Ratio (MLR) Rebates

- Checks or credits generally issued to employer, as the policyholder
- Disposition of rebate is a fiduciary act
- Impact of plan documents and premium structure on—
  - Whether rebate is a plan asset
  - Whether rebate must benefit employer and/or plan participants
- Allocations to plan participants

# Healthcare Reform

## Healthcare Reform Compliance Items—

### New Summary of Benefits and Coverage (SBC)

- A uniform four-page disclosure, which is in addition to SPD
- Deadline is first open enrollment or plan year on or after September 23, 2012
- Regulatory templates issued
- Very detailed requirements
- Need to coordinate with carriers and/or TPAs and counsel

# Healthcare Reform

## Healthcare Reform Compliance Items—

### Healthcare Flexible Spending Account Limit

- \$2,500 salary deferral limit
- Applies to FSA plan years beginning in 2013
- Must amend plan document

# Healthcare Reform

## Healthcare Reform Compliance Items—

### New Exchange Notice

- Notice to new hires and current employees regarding:
  - The existence of an Exchange
  - A description of the services provided by the Exchange
  - How to contact the Exchange to request assistance
  - Possible eligibility for premium assistance through the Exchange if their employer plan is not adequate
  - Possible loss of any employer contribution toward the cost of employer-provided coverage if Exchange coverage is purchased
  - All or a portion of employer contributions to employer-provided coverage may be excludable for federal income tax purposes
- Current effective date is March 1, 2013...

# Healthcare Reform

## Healthcare Reform Compliance Items—

### Additional Medicare Taxes for High Wage Earners

- Effective in 2013
- Additional 0.9% tax for Medicare wages in excess of \$200,000 (\$250,000 if Married Filing Jointly)
- Does not impact employer Medicare tax
- Employers must withhold additional 0.9% on payments in excess of \$200,000

# Healthcare Reform

## Healthcare Reform Compliance Items—

### Recent Proposed Regulations on Wellness Programs

- Effective in 2014
- Maximum discount or reward for “health-contingent programs” increased from 20% to 30% (50% for programs designed to prevent or reduce tobacco use)
- Proposed rules for “health-contingent” programs largely the same as existing HIPAA rules
  - Employers must assist with providing and pay for “reasonable alternatives” to satisfying specific health goals
  - Employers must notify employees of “reasonable alternatives” (model language provided)
- “Participatory programs” largely unaffected

# Healthcare Reform

## Healthcare Reform Compliance Items—

### Automatic Enrollment Implementation

- Applies to “large employers” of more than 200 full-time employees
- Informal guidance indicates that requirement will not be implemented until sometime after 2014

### Delayed Implementation of Nondiscrimination

#### Requirements for Insured Plans

# Healthcare Reform

## Healthcare Reform

### Play or Pay Guidance

## Healthcare Reform

### Employer "Play or Pay" Mandate—

- Effective January 1, 2014
- Applies to "large employers"
  - 50 or more "full-time" employees (including full-time equivalents)
  - "Full-time" means 30 or more hours per week
- In order to "play" and avoid the possibility of "paying," an employer must offer adequate and "affordable" group health plan coverage to all full-time employees and their dependents
  - Plan covers at least 60% of the cost of benefits
  - Employee premium cost does not exceed 9.5% of "household income"

## Healthcare Reform

### Employer "Play or Pay" Mandate—

- If an employer fails to "play" by not offering coverage to ALL full-time employees and their dependents AND at least one full-time employee receives Federal premium assistance for purchasing coverage through an insurance exchange, then the employer will "pay" an annual penalty tax of \$2,000 per full-time employee, excluding the first 30 full-time employees.
  - An employee may qualify for Federal premium assistance if his or her income is less than 400% of the Federal poverty level (approximately \$88,000 for a family of four)



## Healthcare Reform

### Employer “Play or Pay” Mandate—

- If an employer fails to “play” by offering inadequate or unaffordable coverage AND at least one full-time employee receives Federal premium assistance for purchasing coverage through an insurance exchange, then the employer will “pay” an annual penalty tax equal to the lesser of (i) \$3,000 per full-time employee receiving assistance OR (ii) \$2,000 per full-time employee, excluding the first 30 full-time employees.
  - An employee may qualify for Federal premium assistance if his or her income is less than 400% of the Federal poverty level (approximately \$88,000 for a family of four)

## Healthcare Reform

### Play or Pay Guidance—

- Application of 9.5% affordability requirement
- Application of controlled group rules
- Lookback and stability periods for determination of full-time status

## Healthcare Reform

### Play or Pay Guidance—

#### Lookback and Stability Period Concepts

- Apply to “variable hour or seasonal employees” for whom it cannot be determined that the employee is reasonably expected to work on average at least 30 hours per week.
- Maximum 90-day waiting period for otherwise eligible full-time employees

## Healthcare Reform

### Play or Pay Guidance—

#### Lookback and Stability Period Concepts-New Employees

- Lookback period of 3 to 12 months
- Stability period of at least 6 months, but no shorter than lookback period (and stability period for ongoing employees)
- May apply an additional “administrative” period for enrollment process, as long as coverage begins no later than the end of the first calendar month beginning on or after an employee’s first anniversary

# Healthcare Reform

## Play or Pay Guidance—

### Lookback and Stability Period Concepts-Ongoing EEs

- Lookback period of 3 to 12 months
- Stability period of at least 6 months, but no shorter than lookback period
- Use of an “administrative” period for enrollment process must overlap the stability period in order to prevent potential gaps in coverage
- Different periods for different groups permitted in some circumstances

# Healthcare Reform

## Healthcare Reform

### What Employers Should be Doing Now

# Healthcare Reform

## What Employers Should be Doing Now:

1. Addressing current and coming compliance items:
  - Reporting Cost of Coverage on W-2s
  - Medical Loss Ratio (MLR) Rebates
  - New Summary of Benefits and Coverage (SBC) Requirement
  - New \$2,500 FSA Salary Deferral Limit
  - Exchange Notices
  - Withholding New Medicare Taxes on High Wage Earners
  - Reviewing wellness programs

# Healthcare Reform

## What Employers Should be Doing Now:

2. Modeling the impact of the Employer Pay or Pay Requirement
3. Designing plan eligibility rules to comply with the new lookback and stability period concepts
4. Following developments in the law as new guidance is issued:
  - Exchange Notices
  - Automatic Enrollment
  - Nondiscrimination Requirements for Insured Plans

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# Questions ?

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The graphic features a collage of Boston scenes. The top left shows a modern skyline with skyscrapers. The bottom left shows a waterfront area with a black sculpture. The right side is a circular inset showing a street with red brick buildings. The text is arranged in a clean, modern layout with a color palette of orange, blue, and white.