

Impact of ACA on your Organization

A Proprietary Review of the Affordable Care Act (ACA)
and the Implications to Your Organization



Cottingham & Butler

innovative insurance solutions

presented by | Mark Kaczmarek

June 20, 2013

Foundational Thinking

The general purpose of an employee benefit plan is to:

Attract and Retain employees

Can we still accomplish this under the umbrella of the ACA?
Depends



Cost

Ultimate starter question: “Pay or Play”

Pay: \$2,000 per employee (over 30 hours) per year

Attract and Retain

1. Do you have low paid employees? Will they qualify for a subsidy?
2. What will your Non-Subsidy eligible employees do?
3. What will the Exchanges look like?

Cost

Ultimate starter question: “Pay or Play”

Play:

- Contribution must be no more than 9.5% of pay-
 - Annual Box 1 of the W2
 - Rate of Pay calculation
 - Minimum “Safe Harbor” of \$92.24 per month
- Plan must meet Minimum Value requirements
 - 60% of actuarially expected cost (Bronze Plan)
 - Bronze plan is roughly a \$5,000 deductible/ \$6,350 OOP
- Must be made available (at least annually) to all employees (and their dependent (age 26) children) working over 30 hours per week (1560 annually)
 - Spouses do not need to be offered coverage
- All employees expected to work over 30 hours per week are not considered “Variable Hour” and must be offered coverage within 90 days of employment
- Variable Hour employees must be monitored with a Look-back and Stability period
- Automatic Enrollment for groups over 200 lives is coming (2014 *postponed*)

Cost

Ultimate starter question: “Pay or Play”

Play:

Attract and Retain

1. Will the 9.5% requirement break your bank?
2. Will you offer “Safe Harbor” alternative to avoid the penalty?
3. Will a “Safe Harbor” plan really meet the needs of your employee’s and will they perceive it as an attraction and retention benefit?
4. How are you managing and monitoring variable hour employee scheduling?
5. Have you established a look-back period and a method to track it individually for new hires?
6. How will you handle Auto-Enrollment when it becomes effective?
7. Will you cover spouses? If so, what about a spousal surcharge or carveout?
8. What about Defined Contribution Medical Plans?

Administrative Cost

Any new regulation drives new administrative procedures and costs.

1. **SBC's are here. Plan changes and annual distribution must be monitored**
2. **Fee's are here and more coming**
 1. **PCORI**
 - \$1 per member per year in 2013. \$2 in 2014
 2. **Transitional Reinsurance Fee**
 - \$63 per member per year in 2014
 3. **Health Insurer Fee (if fully insured or Minimum Premium)**
 - \$84 (*estimated*) per member per year
3. **105h protection is due to be removed. Discrimination testing will be under a greater microscope**
4. **Transitional Relief-**
 1. **Provided to plans that offered coverage at 33% of ALL employees on 12/27/12 or**
 2. **Provided to plans covering 25% of eligible employees on 12/27/12**
 3. **Qualified plans are eligible to delay 2014 requirements until Plan Anniversary (date on the Form 5500)**

Administrative Cost

Attract And Retain

1. Will you need more benefit/HR support for all the tracking requirements?
2. Who will physically be paying your fees?
3. Are the 2014 fees included in your cost projections?
4. Have you fully reviewed your eligibility for Transitional Relief?
5. Do you know your actual Plan Date for 2014 requirements?
6. Is your current plan, or your future plan, discriminatory?

Wellness

The ACA has new Wellness plan rules which are both good and bad.

Good

1. **The contribution differential goes from 20% to 30% for Standard Based plans**
2. **Nicotine use can be assessed 20%. The 20% can either stand alone or be combined with the 30% wellness differential (50%)**

Bad

1. **The affordability test (9.5%) is based on the non-wellness rate**
 - **Nicotine can still apply. i.e. the 9.5% rate + an additional 20%**

Wellness

Attract And Retain

1. Will you take advantage of the greater wellness differential? (20% to 30%)
2. Will you take advantage of the Tobacco surcharge? (20%)
3. You can use Wellness to possibly “cherry pick” your population. Would you be willing to accept possible affordability penalties in order to remove poor risk?

Discover the DIFFERENCE-Brief Commercial

C&B Highlights in 2012

- Celebrated 125 years in business
- Expanded to over 450 employees
- Achieved \$78 million in revenue
 - 11% average growth rate over the last 20 years

Employee Benefits

- 61% increase in new business revenue from 2011-2012
- Since 2007, our clients have seen a 2.8% average increase
- 95% client retention

Our Resources & “A” Team Approach

- Compliance & HR Consulting team guided by our attorney
- Performance-based wellness company; HealthCheck360
- Subsidiary TPA; SISCO
- Results-focused; led by our own Medical Plan Assessment
- Variety of specialists: compliance, HR, plan document, financial analysts, voluntary benefits, non-medical lines, marketing, dedicated team, network analyst, reform, doctors, nurses, health coaches, etc.



QUESTIONS

sit on the same side of the table | total cost of risk | deliver what we design | invest in a great team | aligned behind our vision

Case Study – Challenges Faced in 2014

| Item | Why is it a problem? |
|-------------------------------|---|
| 30-hour eligibility | Increases the number of eligible employees from 300 to 700 which could mean a huge increase in plan costs |
| Auto enrollment | Employees must “opt-out” if they do not want coverage, which will likely increase participation and plan costs |
| 33% / 25% rule | Failing this rule means you do not qualify for Transitional Relief as a fiscal plan. Penalties begin on 1/1, not 7/1. |
| Single Employee Contributions | Employee rates are too high, and you fail the safe harbor “affordability” parameters which could result in heavy fines |
| Participation Percentage | Carriers could drop your group due to such a low participation rate by your employees |
| Transitional Reinsurance Fee | It will cost you \$25,000 in 2014 |
| Health Insurer Fee | It will cost you \$38,000 in 2014 |
| Employee Hours | You need to set up a look back period, and create appropriate measurement & stability periods to determine who works 30+ hours per week |

Case Study – Decisions to Make

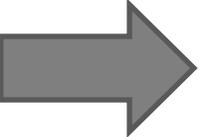
| Question | Why is this important? |
|---|---|
| Should we keep the plan or disband it completely? | Pay or Play Analysis will provide the financial implications, but your ability to recruit & retain employees must be considered |
| Should we cut employee hours below 30 per week? | This will reduce the number of eligible employees for benefits but may create addition issues with recruiting & retaining employees |
| How can we make the employee contributions “affordable”? | You are subject to penalties if the employee contributions are not considered “affordable” by the Affordable Care Act. You may need to spend more, or offer a plan that costs less to the employees |
| Does our plan meet the minimum value required? | You are subject to penalties if your plan does not meet minimum criteria in the actuarial value |
| Should we go self-funded? | Low participation percentage creates problems with the fully-insured market, as well as other concerns |
| How do I determine which employees average 30+ hours per week? | Any employee working over 30 hours per week is eligible for the plan in 2014. You need to set up a look back period, and the appropriate measurement & stability periods. |
| Since we do not get Transitional Relief, what do we need to do for January 1? | You need to comply with the Affordable Care Act, and all of it’s provisions on 1/1, not 7/1. This is problematic because you will need to make changes in the middle of your current plan year. |



Case Study – What did this group decide to do?

| Action | Why? |
|--|---|
| Add a “base plan” in addition to current medical plan | To avoid penalties, while still keeping a plan for employees. The base plan is offered at an “affordable” rate, and meets the minimum value required |
| Renew at 7/1/2013, but start preparing for a self-funded plan effective 1/1/2014 | To be compliant as of 1/1/2014, which is required by the ACA. Self-funding offers more flexibility and a reduction or elimination of certain fees. |
| Send C&B data to perform a Look Back analysis of hours | Determine the best possible way to design your look back period, measurement period, and stability period. This will identify which employees are eligible for the health plan. |
| Increase the rates on the standard plan significantly | This will make the standard plan less affordable for the majority of employees, resulting in fewer newly eligible employees to join the plan. Those that choose to join will likely take the “base plan”. |
| Increase wages on “certain” employees who already were on the standard plan | To offset the increase in rates on the standard plan. This creates a “wash”. It allowed them to continue to provide the same benefits to those employees, without a large number of newly eligible employees joining that plan and increasing the plan costs. |

Today's Objectives

- 1. Understand why this is important**
 - Case Study
- **2. Discuss how this impacts you directly**
 - Overview of the Affordable Care Act
- 3. Design a plan to mitigate the impact of Reform on your business**
 - Strategies to protect your business and your employees



Discovery – Checklist

INSERT WORD DOCUMENT - DISCOVERY

2013 – What is Happening?

| Item | Comments |
|--|--|
| Summary of Benefits & Coverage (SBC) | This is a simple and consistent 4-page document that must be provided to participants |
| 60-day Notice of Plan Changes | You must provide 60 days advance notice of any material modifications to the plan. This does not apply to the renewal. |
| Preventative Care Services for Women | All non-grandfathered plans must cover specific preventative care services for women without cost-sharing requirements. |
| \$2,500 Limit for Flexible Spending Accounts (FSA) | An employee’s annual pre-tax salary reduction contributions to a health flexible spending account (FSA) must be limited to \$2,500 |
| W-2 Reporting | Employers that issue > 250 W-2 Forms must report the aggregate cost cot employer-sponsored group health coverage on W-2 Forms |
| Retiree Drug Subsidy | Employers receiving the Retiree Drug Subsidy (RDS) from Medicare Part D will no longer be permitted to take a tax deduction |
| Medicare Tax Increases | Medicare Part A (hospital) tax rate increases by 0.9% (from 1.45 to 2.35) on wages over \$200,000/250,000 (individual/married) |
| Notice of Exchange | Employers must provide written notice about ACA’s Exchanges - TBD |
| PCORI Fee | \$1 per member per year for the policy/plan year |

*Grandfathered plans are exempt from some of the health care reform requirements



2014 – What is Happening?

Sledgehammer (Pay) or Tackhammer (Play)



OR



2014 – What is Happening?

| Item | Comments |
|---|--|
| Individual Mandate | Tax imposed for certain individuals who do not purchase coverage |
| State Exchanges | 25 States have declared they will default to the Federal Exchange |
| Employer Mandate | Employers not offering coverage or not offering adequate coverage will pay penalties. Employer penalties are avoided if: <ul style="list-style-type: none"> ➤ Offer “Minimum Value Coverage” – 60% actuarial value ➤ Offer “Affordable” Coverage – single rate no more than 9.5% |
| Automatic Enrollment | All new hires must be auto enrolled into the health plan |
| Shorter Waiting Periods | No more than 90 days (1 st of month after 90 days is not allowed) |
| Pre-existing Limitations | No denial of coverage due to health – pre-ex limitations go away |
| No Annual Dollar Limits | Waivers expire after first renewal in 2014 |
| Wellness Reward | Permitted reward increased from 20% to 30% |
| Deductible & Out-of-Pocket (OOP) Maximums | Fully-insured groups < 100 employees must cap their deductibles at \$2,000/4,000 (single/family). All Non-GF plans cannot exceed \$6,250/12,500 for out-of-pocket (OOP) maximums. |
| PCORI Fee | \$2 per member per year for policy/plan year |
| Transitional Reinsurance Fee | In 2014, all self-funded and fully insured health plans will be required to pay a \$63 per covered individual fee. |

2014 – Individual Mandate

- When:** January 1, 2014
- Who:** All American citizens & legal residents
- What:** Must purchase qualified health insurance
- Exceptions:** Limited; including religious, financial hardship, tribal, etc.
- Penalty:** Greater of \$ amount or a % of income
- 2014 = \$95 or 1%
 - 2015 = \$325 or 2%
 - 2016 = \$695 or 2.5%

2014 - Exchanges

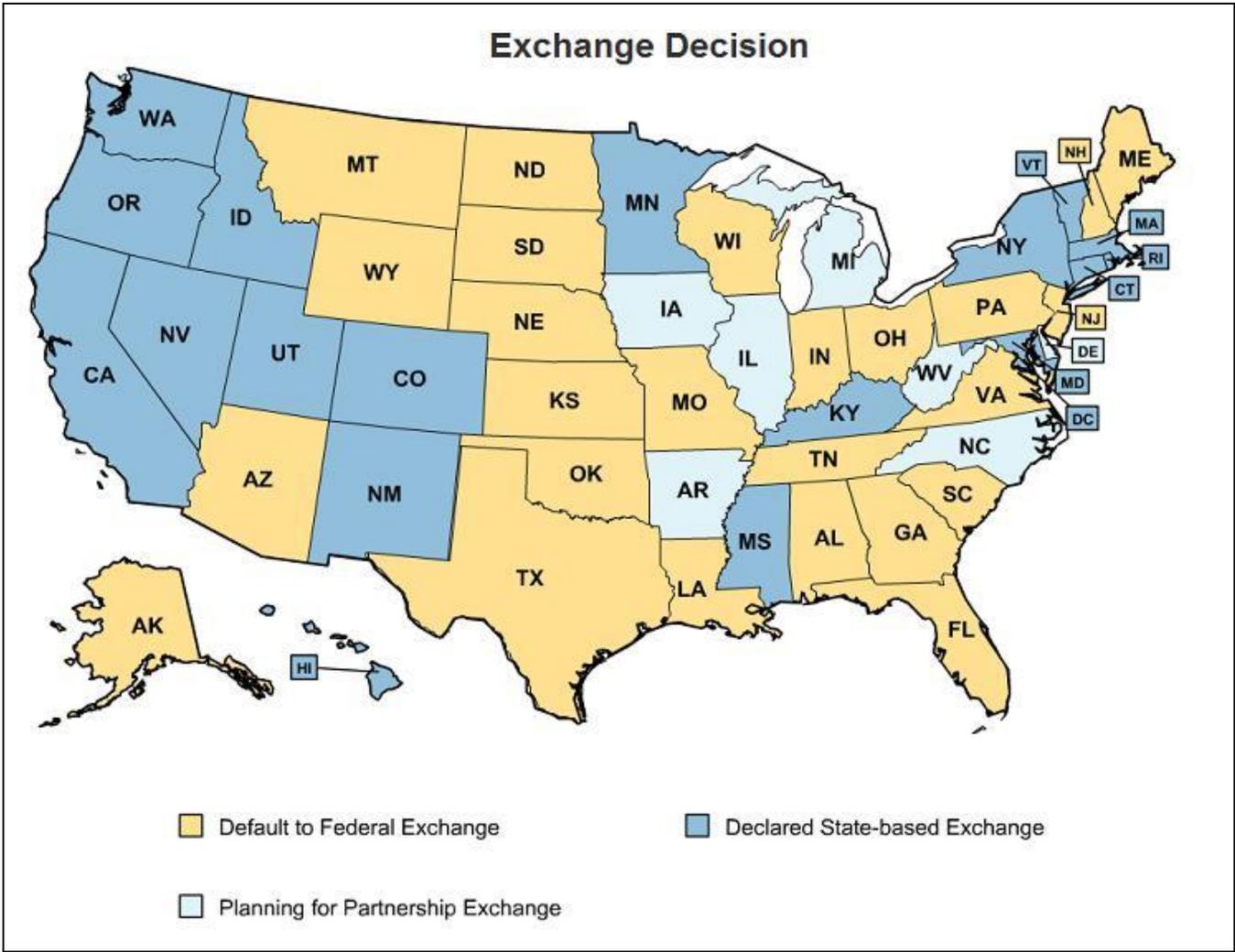
Where will individuals look to obtain qualified health insurance?

- Employer-sponsored health plans
- Private market
- Exchanges (*Bronze, Silver, Gold, Platinum*)

Exchanges must be created by each state for sale of qualified benefit plans to individuals and small employers

- Initial enrollment period is expected to run from 10/1/2013 – 3/31/2014. Coverage must be offered effective 1/1/2014 for enrollments received on or before 12/15/2013
- The Exchanges will provide for a special enrollment period for qualifying events (marriage or birth of child). Each special enrollment period will be 60 days from the date of the triggered event.
- Individuals can be eligible for tax credits
 - **Limits on income and government program eligibility**
 - **Employer plan is unaffordable or not of minimum value**
- Annual enrollment periods for 2015 and subsequent years will begin Oct. 15 and extend through Dec. 7 of the preceding calendar year. Starting in 2014, the Exchange must provide advance notice between Sept. 1 – Sept. 30.

Recent ACA Updates - Exchanges



The states have made their decisions on creating an exchange, partnering with the federal government, or defaulting to a federal exchange.

This is important as those individuals in federal exchanges are **not** eligible for premium subsidies.

2014 – Who is Eligible for Premium Subsidy?

| Employer-Sponsored Plan: Employee Premium Contribution as a Percent of Household Income | | |
|---|--|------------------------------|
| Federal Poverty Level (FPL) | 0.0% - 9.5% | 9.5% + |
| 401% | Not Eligible for Premium Subsidy | |
| 134-400% | Not Eligible for Premium Subsidy | Eligible for Premium Subsidy |
| 0-133% | Medicaid Eligible No Employer Penalties for Medicaid-Enrolled Employees | |

Example: Family of 4 w/ household income of \$92,200 qualifies for subsidy (under 401% FPL)

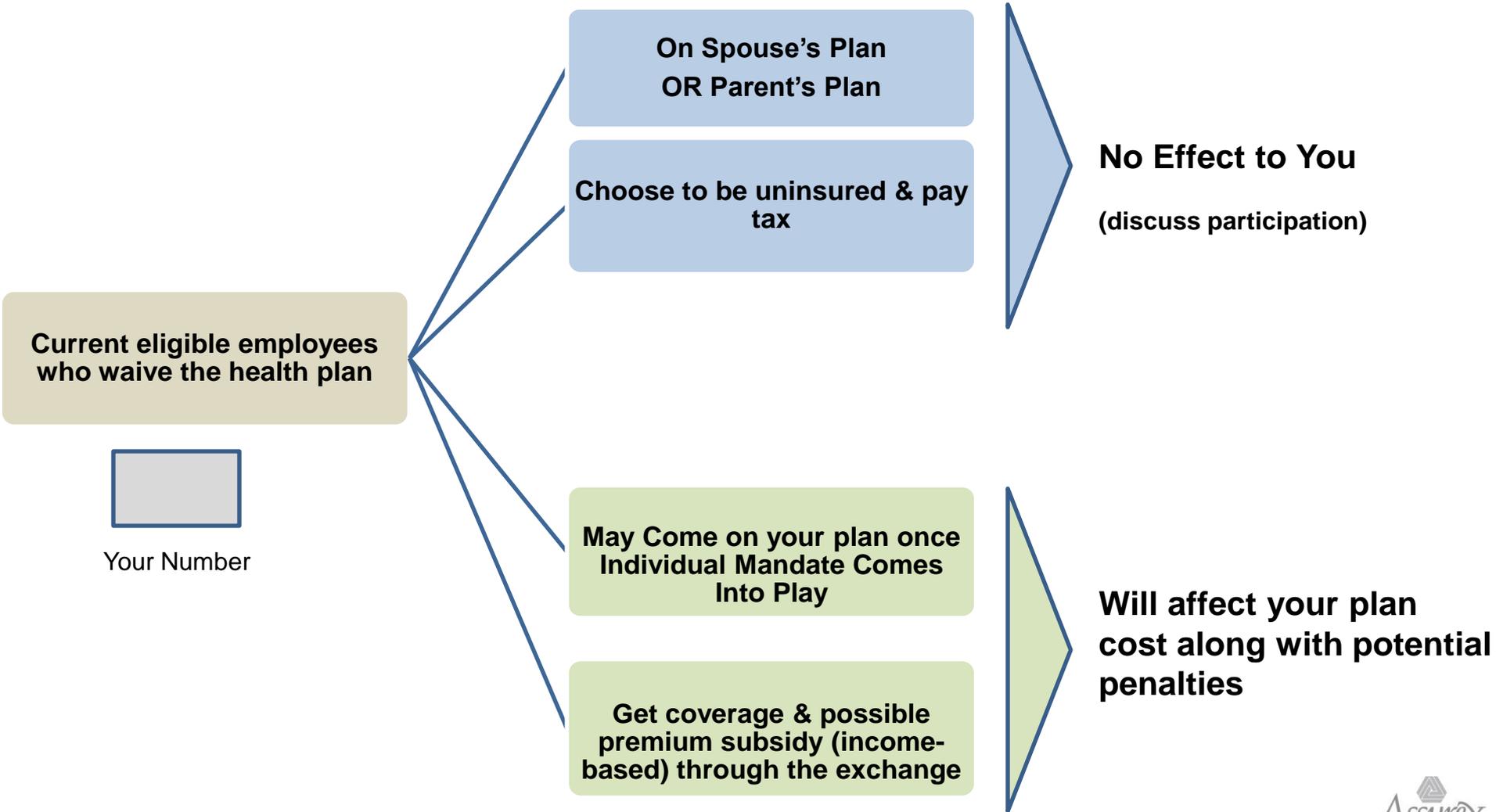


2014 – Employer Mandate

INSERT FLOW CHART

What the Employee May Do: Why Play or Pay Matters

Participant Decision Options

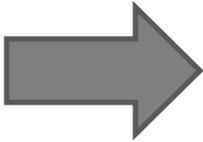


Look Back Period – Determining Average EE Hours Worked

- **Discuss the look back period to determine average hours worked by employees to verify eligibility for health plan (2014)**
 - Measurement Period (3 – 12 months)
 - Administrative Period (up to 90 days)
 - Stability Period
 - At least 6 months following the measurement period
 - At least as long as the measurement period
 - Cannot exceed the length of measurement period (if the employee is not FTE during measurement)

- **Provide completed analysis of hours worked, and we will offer our recommendations to establish your look back period**
 - See sample spreadsheet in supplemental resources

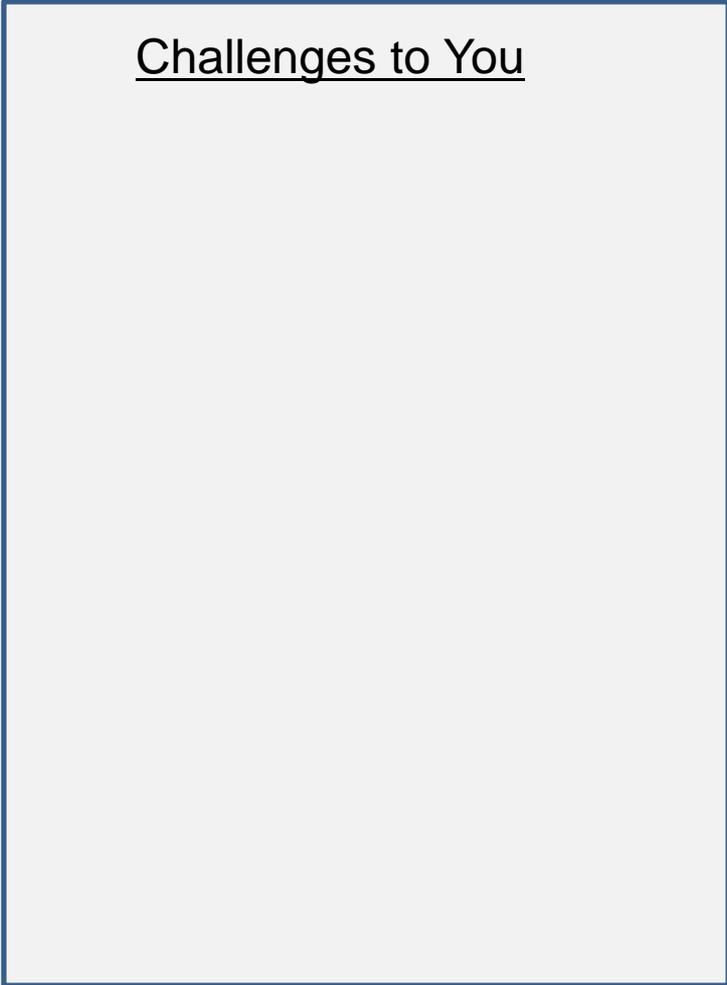
Today's Objectives

- 1. Understand why this is important**
 - Case Study
- 2. Discuss how this impacts you directly**
 - Overview of the Affordable Care Act
- **3. Design a plan to mitigate the impact of Reform on your business**
 - Strategies to protect your business and your employees

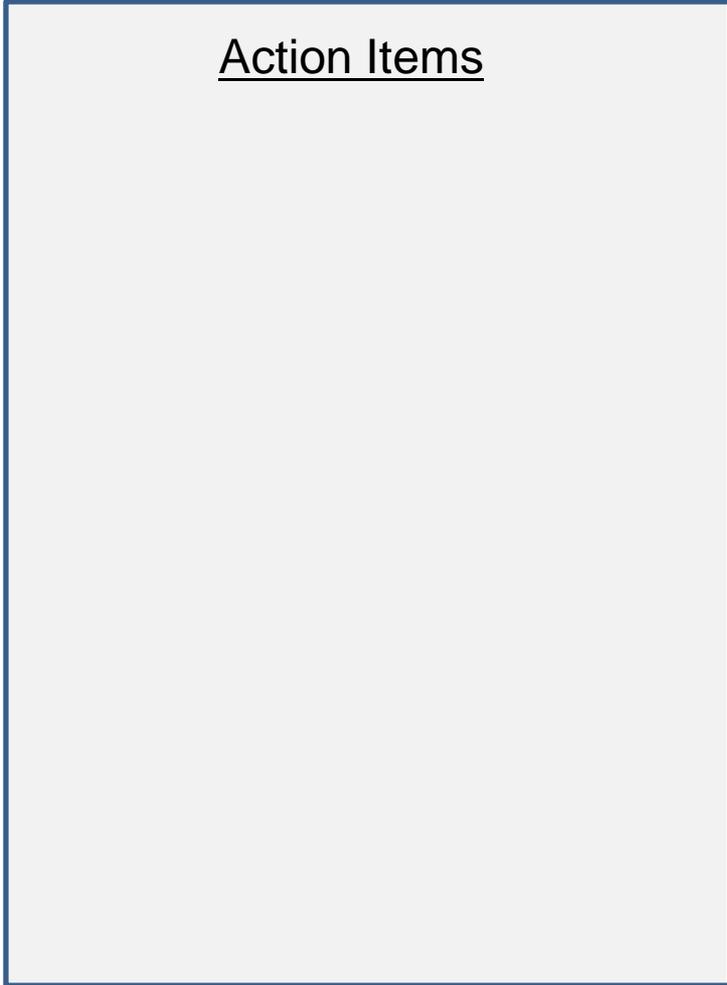


Open Discussion

Challenges to You



Action Items



Discover the DIFFERENCE

C&B Highlights in 2012

- Celebrated 125 years in business
- Expanded to over 450 employees
- Achieved \$78 million in revenue
 - 11% average growth rate over the last 20 years

Employee Benefits

- 61% increase in new business revenue from 2011-2012
- Since 2007, our clients have seen a 2.8% average increase
- 95% client retention

Our Resources & “A” Team Approach

- Compliance & HR Consulting team guided by our attorney
- Performance-based wellness company; HealthCheck360
- Subsidiary TPA; SISCO
- Results-focused; led by our own Medical Plan Assessment
- Variety of specialists: compliance, HR, plan document, financial analysts, voluntary benefits, non-medical lines, marketing, dedicated team, network analyst, reform, doctors, nurses, health coaches, etc.



Health Care Reform Expertise



Adam P. Jensen, JD, CEBS, GBA, FLMI
Vice President of Compliance Services

Adam P. Jensen, Vice President with Cottingham & Butler, has worked in the insurance and employee benefits industry since 1986. He specializes in providing regulatory compliance and plan design services for health and welfare plans. He also advises executive clients on non-qualified deferred compensation issues. Prior to joining Cottingham & Butler, Adam was the Senior Compliance Officer for Virchow Krause Employee Benefits, LLC. He was previously a manager in the human capital practice of a Big Four accounting firm and has also served as an in-house ERISA attorney for a well-known national financial and retirement plan services firm. He leads Cottingham & Butler's Compliance and Human Resource Consulting practice group.

Specific Experience

- Advises Fortune 500 clients on HIPAA and ERISA compliance issues for health and welfare plans.
- Advises Fortune 500 clients on plan design and IRS/DOL compliance issues for qualified retirement plans.
- Provides consulting and plan design for non-qualified executive compensation plans
- Frequent speaker and webinar presenter on compliance and benefit topics.

Industry Involvement

- Milwaukee Chapter of the International Society Certified Employee Benefits Specialists.
- International Foundation of Employee Benefit Plans
- Greater Madison SHRM Chapter

Education

University of Minnesota - Minneapolis
 Bachelor of Arts in History

William Mitchell College of Law
 Juris Doctorate

International Foundation of Employee Benefit Plans
 Certificate in Global Benefits Management

QUESTIONS

sit on the same side of the table | total cost of risk | deliver what we design | invest in a great team | aligned behind our vision

Supplemental Items to Include

1. **Wellmark ACA Fee Fact Sheet – (from Linda Perry)**
2. **Pay or Play Calculator**
3. **Lookback period – Taylor sample spreadsheet – Rob & Mark’s powerpoint slide show with measurement/stability period visuals**
4. **MyWave items – legislative briefs**
5. **MyWave Reform Toolkit?**
6. **Reform FAQ’s**