



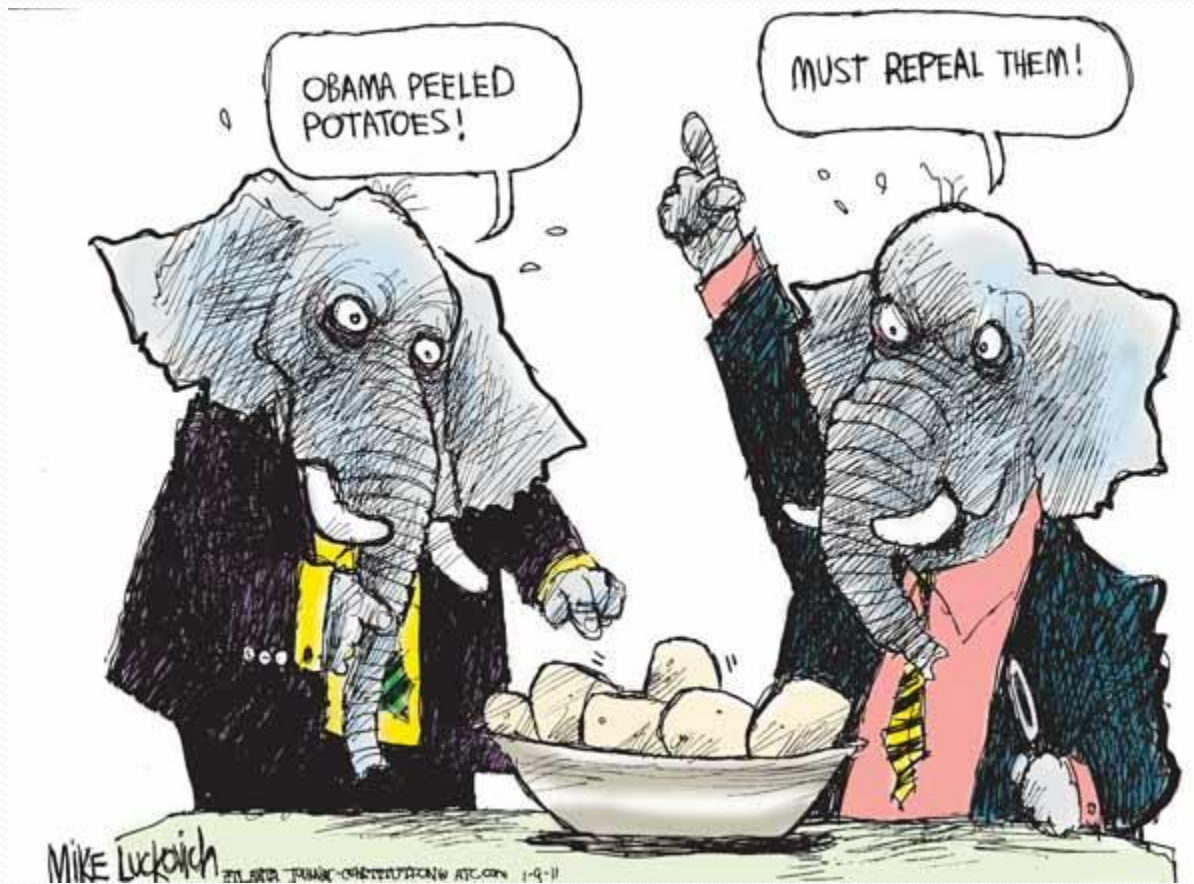
# Implementing Health Care Reform

*Overview of the PPACA for Employers*

# Recap on Health Reform Legislation

- President Obama signed Patient Protection and Affordable Care Act (PPACA) on March 23, 2010
- Makes significant statutory changes affecting the regulation of and payment for many types of private health insurance – many insurance market reforms
- Will require almost all private sector employers to evaluate the health benefits they currently offer and consider whether they are compliant
- Contains employer responsibility requirements for those with 50+ employees
- Individual mandate to purchase and maintain minimum coverage
- Focuses on insurance market reforms and subsidies – does not
- Bulk of the reforms take effect in 2014, but there are still many aspects of the law employers need to be cognizant of between now and then

# Political Dynamic



# Political Dynamic

- Washington's political dynamic is completely fractured
- Compromise is extraordinarily difficult--moderates can't survive
- House actions are tempered by tight Democratic majority in the Senate and President Obama
- Both parties trying to balance delivering on promises now and goals for 2012
- Inaction will only increase as we get closer to the 2012 elections



# Political Dynamic



- Budget Deficit and JOBS dominating Washington
- Only bills likely to pass this fall are “must-pass” measures that are funding related
- “Super Committee” report due by Thanksgiving
- Must be enacted by end of year to avoid across-the-board cuts
- Some groups would fare better under across-the-board cut scenario
- Numerous health program funding changes are potential targets
- Also on the table is a change to the tax treatment of employer-provided coverage

# Unhappy States

Budget deficits

Individual mandate lawsuits

Medicaid changes/increased costs to states

New mandates

Lack of speedy guidance/regulations for states

Refusal of some to take PPACA funds/implement programs

Extreme variation in state political climates—California to Wisconsin

Tea Party influence untested and varied by state



# Immediate Insurance/Benefit Change Timeline for Employers

<b>2010</b>	<ul style="list-style-type: none"><li>•Grandfathered Plans Take Effect</li><li>•Small Business Tax Credits</li><li>•Federal High Risk Pool</li><li>•Federal Retirement Reinsurance Program</li><li>•Federal Premium Rate Oversight</li><li>• Sept. 23<sup>rd</sup> Reforms for All Plans-- Dependent Coverage to Age 26, No Preexisting Condition Limitations for Children, Rescission Restrictions, Annual and Lifetime Limit Restrictions</li><li>•Sept. 23<sup>rd</sup> Reforms for Non-Grandfathered Plans--Preventive Care, 105h Nondiscrimination (<i>enforcement delayed</i>), New coverage appeals process requirements</li></ul>
<b>2011</b>	<ul style="list-style-type: none"><li>•FSAs/HRAs/HSAs — OTC drugs not allowed without Rx</li><li>•HSA distribution tax increases</li><li>•Simple cafeteria plan rules</li><li>•Medical Loss Ratio requirements begin</li><li>•Federal Rate Review standards begin</li><li>•Small business wellness grants should be made available, but have not been yet</li></ul>

# Immediate Insurance/Benefit Change Timeline for Employers

2012

- Newly defined preventive care requirements for non-grandfathered plans begin
- New longer Summary Plan Description requirements (60 day notice of material change)
- New quality reporting requirements (to HHS and beneficiaries) for all employer plans and all individual and group carriers
- Delayed W2 Reporting begins (requirement is optional for employers who issue less than 250 W2s until further notice)
- CLASS Act options for the new national long-term care program *should* be announced by HHS. Participating employers must auto-enroll employees
- Employers whose carrier did not meet MLR standards may receive a rebate. Carriers responsible for ensuring that any rebate is shared with employees based on employer-contribution standards.
- New Medicare Taxes on unearned income and higher income employees and self-employed

2013

- FSA contributions capped at \$2,500
- New federal premium tax on fully insured and self-insured group health plans to fund comparative effectiveness research program begins. It imposes an annual fee on private insurance plans equal to two dollars for each individual covered.
- Exchange notification requirements for employers

# Changes to PPACA

## Requirements for Employers

- Enforcement delayed on 105 (h) non-discrimination rules for all fully insured non-grandfathered plans
  - IRS solicited comments in March
  - No word on when new guidance will be issued/enforcement could begin
- W2 Reporting made optional for 2011
  - New Guidance Issued March 29 for 2012
  - Relief for smaller employers (those filing fewer than 250 W-2 forms) by making this requirement optional for them at least for 2012 and possibly longer (till more guidance is issued)
  - For larger employers includes information on how to report, what coverage to include and how to determine the cost of the coverage
- 1099 Reporting requirements repealed
- Employee Free Choice Voucher Program eliminated
- Funding for Cooperative Plans Reduced

# The Big Year - PPACA in 2014

- Individual Mandate
- Health Insurance Exchanges
- Employer Mandate
- Other significant changes:
  - Modified community rating
  - Individual market guaranteed issue
  - Subsidies available for qualified individuals purchasing through the exchanges
  - New premium taxes on fully-insured plans
  - Essential benefit requirements
  - Minimum value standard
  - Deductible Limits for Small Businesses

# Individual Mandate

Dist. by Health Policy Institute Group  
LISA © 2010 12:15

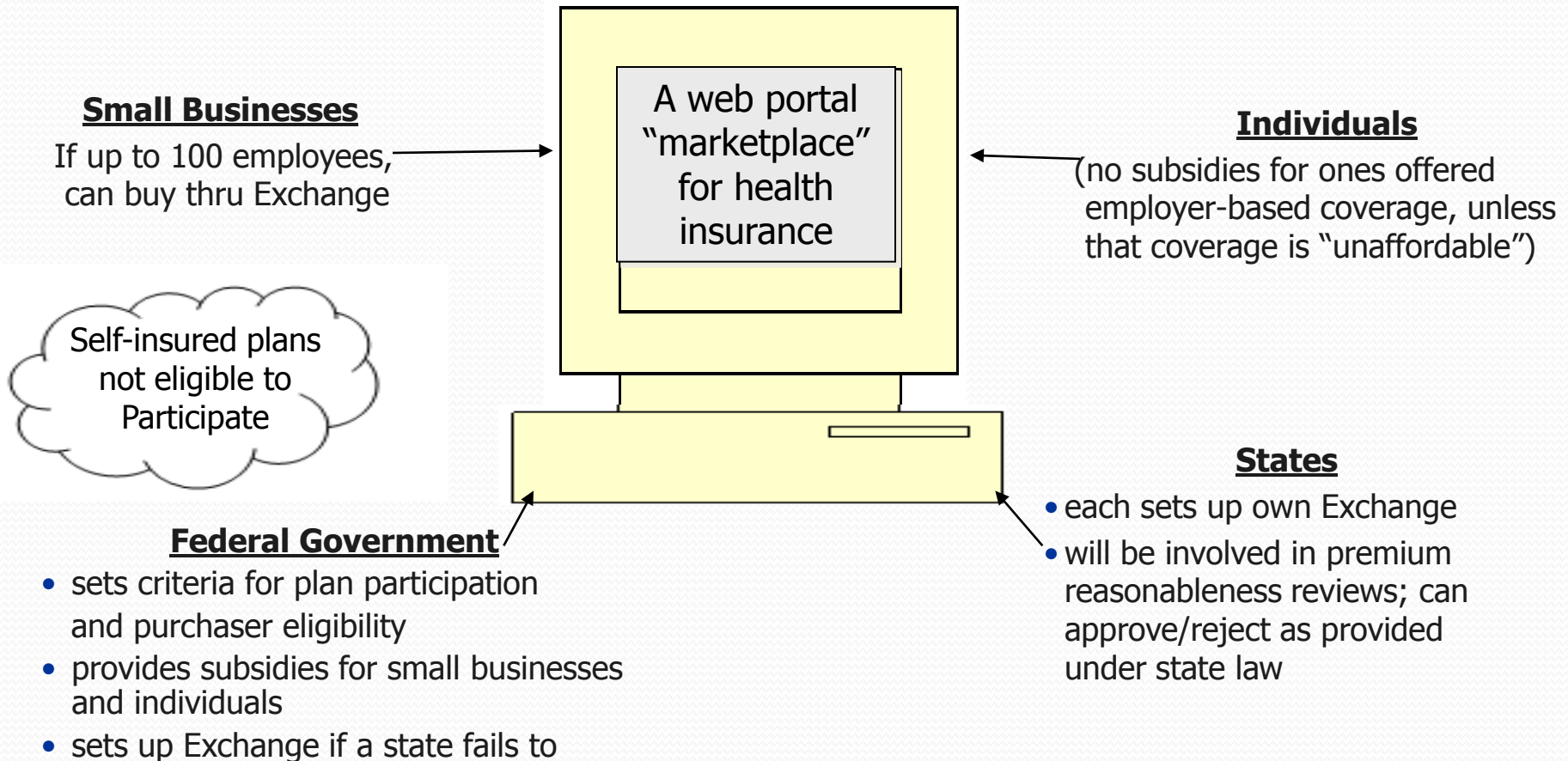


- Supposed to take effect on January 1, 2014
- Applies to most Americans but there are specified exceptions
- Violators subject to a phased-in excise tax penalty of either a flat-dollar amount per person or a percentage of the individual's income, whichever is higher
- Widely viewed as weak and unenforceable
- Constitutionality likely to be considered by Supreme Court during Summer 2012

# PPACA Exchanges

- State-based health insurance exchanges
  - Law requires the creation of an American Health Benefit Exchange (AHBE) (for individuals) and Small Business Health Options Program (SHOP) Exchange for small employers up to 100 lives
  - States can combine their individual and small employer exchanges
  - Regional sub-exchanges optional
  - States can choose to expand their exchanges to serve employer groups of 100+ in 2017
- Not Optional—If a state doesn't create one, federal government will
- Transparent and more standardized benefit packages and will feature more choice in plans, carriers, networks (comparison shopping)
- Premium tax credits only available for individuals purchasing through an exchange, not those in an employer group
- People with adequate and affordable group coverage cannot leave group plan for the individual exchange

# Exchange Model



# Exchange Questions for Employers

- Are you eligible to purchase exchange-based coverage
- Is there an advantage to purchasing coverage through the SHOP exchange?
- What about competing private exchanges?
- How can you budget for potential cost increases?
- What will be your new compliance costs and responsibilities?
- What would the advantages/disadvantages be to dropping coverage and thereby allowing employees to purchase coverage through the individual exchange?
- What will your communications strategy be?

# Employer Responsibility Requirement

- Effective starting January 1, 2014
- Employer must count all full-time employees and part-time employees – on a full-time equivalent basis – in determining if they have 50 or more employees
  - Certain seasonal workers are not counted in determining if employer has 50 workers
  - Full-time = 30 or more hours per week, determined on a monthly basis
- Penalties assessed for “no coverage” or coverage that is “not affordable”
- Minimum value standard to be developed to determine adequacy of coverage
- Premium used to calculate affordability versus household premium is the single employee rate, regardless of how many dependents employee has covered on the employer plan

# “Affordability” Penalty Calculation

Federal Poverty Limit - FPL	2011 FPL	Hourly Rate	Household %	Premiums per Mo @ 9.5% FPL
	1 Unit			Self ONLY
100%	\$10,890	Medicaid		N/A
133%	\$14,484	Medicaid		N/A
150%	\$16,335	\$7.85/hr	9.5%	\$130/mo
200%	\$21,780	\$10.47/hr	9.5%	\$172/mo
250%	\$27,225	\$13.09/hr	9.5%	\$216/mo
300%	\$32,670	\$15.71/hr	9.5%	\$259/mo
350%	\$38,115	\$18.32/hr	9.5%	\$302/mo
400%	\$43,560	\$20.94/hr	9.5%	\$345/mo
<i>400% family of 4</i>	<i>\$89,400</i>		<i>9.5%</i>	<i>\$849/mo</i>

# Will the Employer Pay A Penalty? *beginning in 2014*

## Are you a large employer?

- at least 50 full-time equivalent workers
  - including full-time [30+hours per week] and part-time workers [prorated]
  - excluding seasonal workers [up to 120 days per year]

yes

no

Are any of your full-time employees in an exchange plan and receiving a premium credit?

yes

no

Do you have more than 30 full-time employees?

yes

no

Do you provide health insurance?

yes

no

**No penalty**

### Pay Monthly Penalty, *lesser of:*

$\frac{1}{12} \times \$2,000 \times$   
(Number of full-time employees - 30)

or

$\frac{1}{12} \times \$3,000 \times$   
(Number of full-time employees who receive credits for exchange coverage)

### Pay Monthly Penalty

$\frac{1}{12} \times \$2,000 \times$   
(Number of full-time employees - 30)

# 2014 Changes to the Way Employer Plan Premiums Are Calculated

- Changes for all fully insured group plans:
  - All guaranteed-issue with no preexisting condition limitations
  - Annual and lifetime limits will be prohibited, including for grandfathered plans.
  - Size of a small-employer group will be redefined to one to 100 employees (although states may elect to keep the size of small groups at 50 employees until 2016)

# 2014 Changes to the Way Employer Plan Premiums Are Calculated

- Market reforms for fully insured small groups up to 100 employees (and any larger fully insured groups if a state allows groups of 100+ in their exchange):
  - Strict modified community rating standards with premium variations only allowed for age (3:1), tobacco use (1.5:1), family composition and geographic regions
  - Experience rating would be prohibited
  - Wellness discounts will be allowed for group plans under specific circumstances
  - Could have a SIGNIFICANT price impact

# Other Employer Plan Reforms in 2014

- The essential benefit standards for qualified coverage begin
  - Recommendations on their content will be released by Institute of Medicine on October 7
  - When Obama Administration will release actual regulation is unclear
  - Standard will apply to all fully insured small group (1-100; possibly 1-50; until 2016 based on state decision) and individual products to be sold both inside and outside the exchanges
  - If a state allows fully insured large groups in its exchange after 2017, then it will apply to all fully insured large groups too
  - The essential benefit standards include specific mandated benefits, cost-sharing requirements, out-of-pocket limits and a minimum actuarial value of 60%
- Large groups and self-funded plans will be subject to a different, to-be-determined minimum value standard, to be developed by IRS/DOL/HHS for employer mandate compliance purposes

# Other Employer Plan Reforms in 2014

- Employee waiting periods of more than 90 days are prohibited for all plans, including grandfathered plans.
- Employer-sponsored wellness program rules for all employer group plans under HIPAA improve and employers can increase the value of workplace wellness incentives up to 30% of premiums, with HHS discretion to increase the incentives to 50%
- Small businesses prohibited from buying coverage with deductibles in excess of \$2000 individual/\$4000 family

# Other Employer Responsibilities

- Employers must automatically enroll “new *full-time* employees” in employer-sponsored coverage
  - Must provide adequate notice and opportunity to opt out
  - Applies to employers with “more than 200 full-time employees”
- Notice to current employees and new hires about exchange and subsidies
  - Existence of exchange, services and how to obtain assistance
  - Availability of subsidies if employer coverage is unaffordable or below minimum benefit level.

# More Employer Responsibilities

- New rules are out relative to the reporting on W-2s the value of employer provided health insurance
- **A new four-page summary of benefits must be provided to employees beginning in 2012**
- Completion of form 5500 will become more complex
- New requirements on claims and appeals will be in place
- Tracking and notification of number of months employees covered by minimum required coverage.



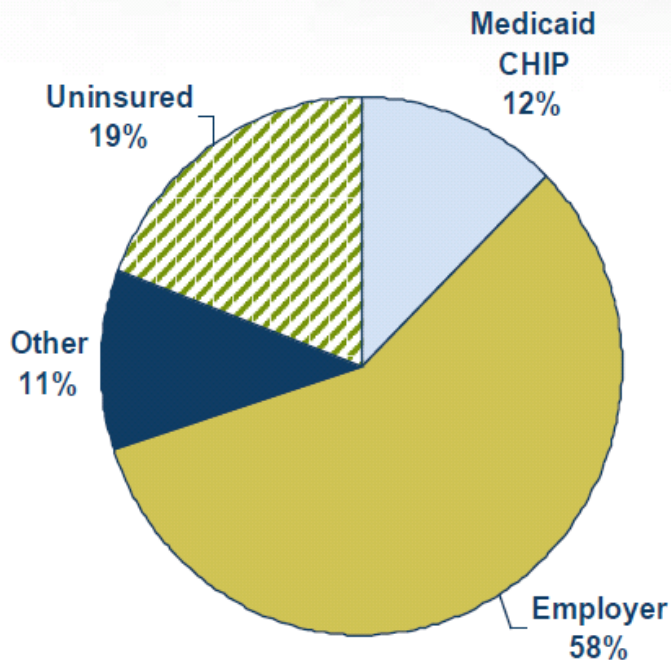
*Enid was finally ready to admit that compliance was a bit more complicated than she first thought.*

# PPACA in 2018

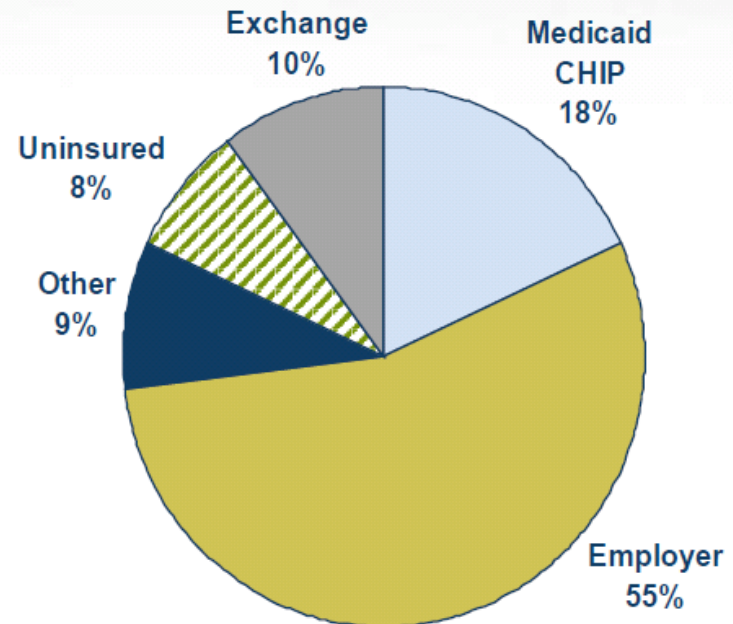
- Cadillac tax goes into effect for all group plans, including self-insured plans. The tax would be paid by the insurer in the case of a fully insured group or the TPA in a self-insured arrangement, but would be passed on directly to the employer.
- 40% excise tax on insurers of employer-sponsored health plans with aggregate values that exceed \$10,200 for singles and from \$27,500 for families takes effect in 2018
- Arbitrary numbers and lack of adequate indexing may be problematic

# CBO 2019 Estimates of Insurance Coverage

## Baseline: Without PPACA



## With PPACA



Among nonelderly (under age 65). 'Exchanges' include 2% (5M) that CBO counted as 'Employer.' If excluding unauthorized immigrants, CBO's uninsured projection for PPACA would be 6%.