

Health Care Reform Under the ACA - Its Effect on Municipalities and Their Employees

Maine Municipal Employees Health Trust
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www.mmeht.org

The Difference Is Trust

August 2014



Today's Agenda

- A Very Brief History of the ACA
- Benefit and Coverage Changes Already in Place
- Reporting Requirements Already in Place
- Coming Soon – More Reporting Requirements
- The Individual Mandate
- The Cadillac Tax

BREAK

- Employer Shared Responsibility Provision –
“Play or Pay”



"Yes, we have 'All You Need To Know About The Health Care Legislation' but it is part of a twelve volume set."

What Is the ACA, and Why Should We Care?

- PPACA = Patient Protection and Affordable Care Act (frequently referred to now as simply the ACA)
- Signed into law on March 23, 2010
- Goals:
 - Increase the rate of health insurance coverage for Americans
 - Reduce the overall cost of health care

Some ACA Changes Already in Place – Plan Benefits

- Mental health parity (groups ≥ 50)
- No more annual limits on essential benefits
- Preventive Care covered at 100%
- FSA annual limits lowered to \$2,500
- Annual out of pocket maximums
 - Deductible / coinsurance / copays
- Health Trust is in compliance with all applicable changes

Some ACA Changes Already in Place - Coverage

- Children covered to age 26
 - Maximum 90 day waiting period for health insurance
 - No more lifetime maximums
-
- Health Trust is in compliance with all applicable changes

Some ACA Changes Already in Place - Notices and Reporting

- Summaries of Benefits and Coverage (SBCs)
- Notice of Health Insurance Marketplace (new employees)
- W-2 Reporting (>250 W-2 employees)
 - Notice and reporting requirements are an employer responsibility; Health Trust can help

Required Notices Under the ACA

Summaries of Benefits and Coverage (SBCs)

- Must be distributed to all benefits-eligible employees:
 - Prior to the employee first enrolling in health insurance
 - Prior to the beginning of the plan's open enrollment period each year
- Employer is responsible for distributing the SBCs
- If employee can choose among different health plan options, employer must provide SBCs for each health plan in which employee may enroll
- SBCs for Health Trust plans available on the Trust website: www.mmeht.org (click on the link for SBCs)
- Updated SBCs for 2015 - available by October 1

Required Notices Under the ACA

Notice of Health Care Exchanges

- Must be distributed to all new employees within 14 days of the employee's start date
 - Notice must be given regardless of the employee's eligibility for employer-sponsored health plan
 - Different notices, depending on whether or not the employer offers coverage
 - Annual notice is not required at this time
- Employer is responsible for distributing Notices, and for completing basic information about employer-sponsored coverage
- Sample Notices available on the DOL website at:
<http://www.dol.gov/ebsa/faqs/faq-noticeofcoverageoptions.html>



W-2 Reporting of Health Insurance

- Purpose of reporting: to provide employees with “useful and comparable consumer information on the cost of their health care coverage” (www.IRS.gov)
- Will not cause excludable employer-provided health coverage to become taxable
- Reporting is based on total cost of each individual employee’s coverage
 - Includes employer portion and employee portion of premium
 - Includes cost for dependent coverage, if employee is enrolled in dependent coverage
 - If employee covers Domestic Partner, any amount of premium cost included in employee’s gross income must be included in reported amount

W-2 Reporting of Health Insurance

- Starting with tax year 2012, required for employers with 250 or more W-2 employees
- Optional for employers with fewer than 250 W-2 employees
 - Further guidance required from IRS
 - Six (6) months advance notice required before change

W-2 Reporting of Health Insurance

- Information must be reported in Box 12 of the W-2, Code DD
- Does not include cost of standalone dental or vision plans
- May include employer contribution to HRA, but this is optional
- If employee terminates mid-year, can request W-2
 - Employer must provide W-2 within 30 days, if request made in writing
 - Employer is not required to provide health insurance cost information for mid-year W-2s
- For more information:
 - www.irs.gov/uac/Form-W-2-Reporting-of-Employer-Sponsored-Health-Coverage

Coming Soon - More Reporting Requirements



Insurer Reporting

- Section 6055 – “MEC” Reporting
- Insurer responsibility
- Provides individuals and IRS with information regarding Minimum Essential Coverage (MEC)
- Lets individuals know whether they satisfied the individual mandate for preceding calendar year
- Reporting includes:
 - Name of entity providing coverage
 - Who was enrolled and when (by month)
 - Identifying info (taxpayer ID number)
- Section 6055 reporting is Health Trust responsibility

Insurer Reporting

- Mandatory reporting begins in 2016, for 2015 plan year
 - Voluntary reporting for 2014 plan year
- Statements must be provided to employees by January 31 of the following year
 - For example, 1/31/2016 for 2015 plan year
- Returns must be provided to the IRS by March 31 of the following year
 - For example, 3/31/2016 for 2015 plan year
 - February 28 if paper filing
 - Section 6055 reporting is Health Trust responsibility

Insurer Reporting

- Draft Form 1095-B issued by IRS on July 24, 2014
- Draft instructions to be issued sometime in August 2014
- Final forms to be issued by the IRS “later this year”
- Draft form may be viewed on IRS website at:
 - <http://www.irs.gov/pub/irs-dft/f1095b--dft.pdf>
 - Section 6055 reporting is Health Trust responsibility

Employer Reporting

- Section 6056 – Employer Mandate/Subsidy eligibility
- Employer responsibility
 - Applicable Large Employers only – 50+ full-time employees
- Provides individuals and IRS with information regarding:
 - Months during which each eligible employee was covered
 - Affordability of health plans offered
 - “Simplified” reporting available under certain conditions (qualified offer of coverage all 12 months, etc.)
- Information will be used to determine whether individual is eligible for a subsidy through the health insurance marketplace
 - Section 6056 reporting is employer responsibility

Employer Reporting

- Mandatory reporting begins in 2016, for 2015 plan year
 - Voluntary reporting for 2014 plan year
- Statements must be provided to employees by January 31 of the following year
 - For example, 1/31/2016 for 2015 plan year
- Returns must be provided to the IRS by March 31 of the following year
 - For example, 3/31/2016 for 2015 plan year
 - February 28 if paper filing
 - Section 6056 reporting is employer responsibility

Employer Reporting

- Draft Form 1095-C issued by IRS on July 24, 2014
- Draft instructions to be issued sometime in August 2014
- Final forms to be issued by the IRS “later this year”
- Draft form may be viewed on IRS website at:
 - www.irs.gov/pub/irs-dft/f1095c--dft.pdf
 - Section 6056 reporting is employer responsibility



IRS

Department of the Treasury
Internal Revenue Service

The Individual Mandate

- Also referred to as Individual Shared Responsibility
- Starting in 2014, with a few exceptions, individuals will be required to have health insurance
 - Exceptions include: family income below threshold for filing income tax; coverage is unaffordable (costs more than 8% of household income)
- Insurance may be through: an employer, Medicare, Medicaid, CHIP, veterans health or Tricare, grandfathered health plan, or individual coverage (through the Exchange or otherwise)
- Coverage must meet certain level of benefits –
 - Minimum Essential Coverage
 - 60% actuarial value - Bronze plan

The Individual Mandate

- Individuals must report when filing taxes (form 1040) starting in 2015 (for 2014 tax year)
 - According to the IRS website: “Information will be made available later about how the income tax return will take account of coverage and exemptions.”

www.irs.gov/uac/Questions-and-Answers-on-the-Individual-Shared-Responsibility-Provision

- Penalty will be assessed for not having insurance
- Penalty will be pro-rated by the number of months without coverage
- No penalty for a single gap in coverage of less than 3 months in a year
- Maximum penalty tied to the national average premium for the lowest cost bronze-level plan available in the health insurance marketplace

The Individual Mandate

- What is the annual penalty?
 - 2014: Greater of \$95 per adult and \$47.50 per child (up to \$285 per family), or 1% of family income
 - Maximum (based on 1% of income) - \$2,448 for individual, up to \$12,240 for family of 5
 - 2015: Greater of \$325 per adult and \$162.50 per child (up to \$975 per family), or 2% of family income
 - 2016: Greater of \$695 per adult and \$347.50 per child (up to \$2,085 per family), or 2.5 of family income
 - After 2016 – will be indexed, based on Cost of Living
- Note: “Income” = total income in excess of the filing threshold (threshold for having to file annual tax return; in 2013, this is \$10,000 / individual and \$20,000 / family)

A JUDGE
RULED THAT THE
GOVERNMENT...



CAN'T FORCE
ME TO BUY
HEALTH CARE.



SO WHEN
I'M SICK...



I'LL GO TO THE
EMERGENCY ROOM...



WHICH DRIVES
UP PREMIUMS
FOR EVERYONE
ELSE.



SO I'M THE ONE
BEING FORCED
TO BUY YOUR
HEALTH CARE.



MINE WITH THE TOTAL 2010 KING PAPER & SYNDICATE

Some ACA Changes Coming Down the Road

- **“Cadillac Tax”**

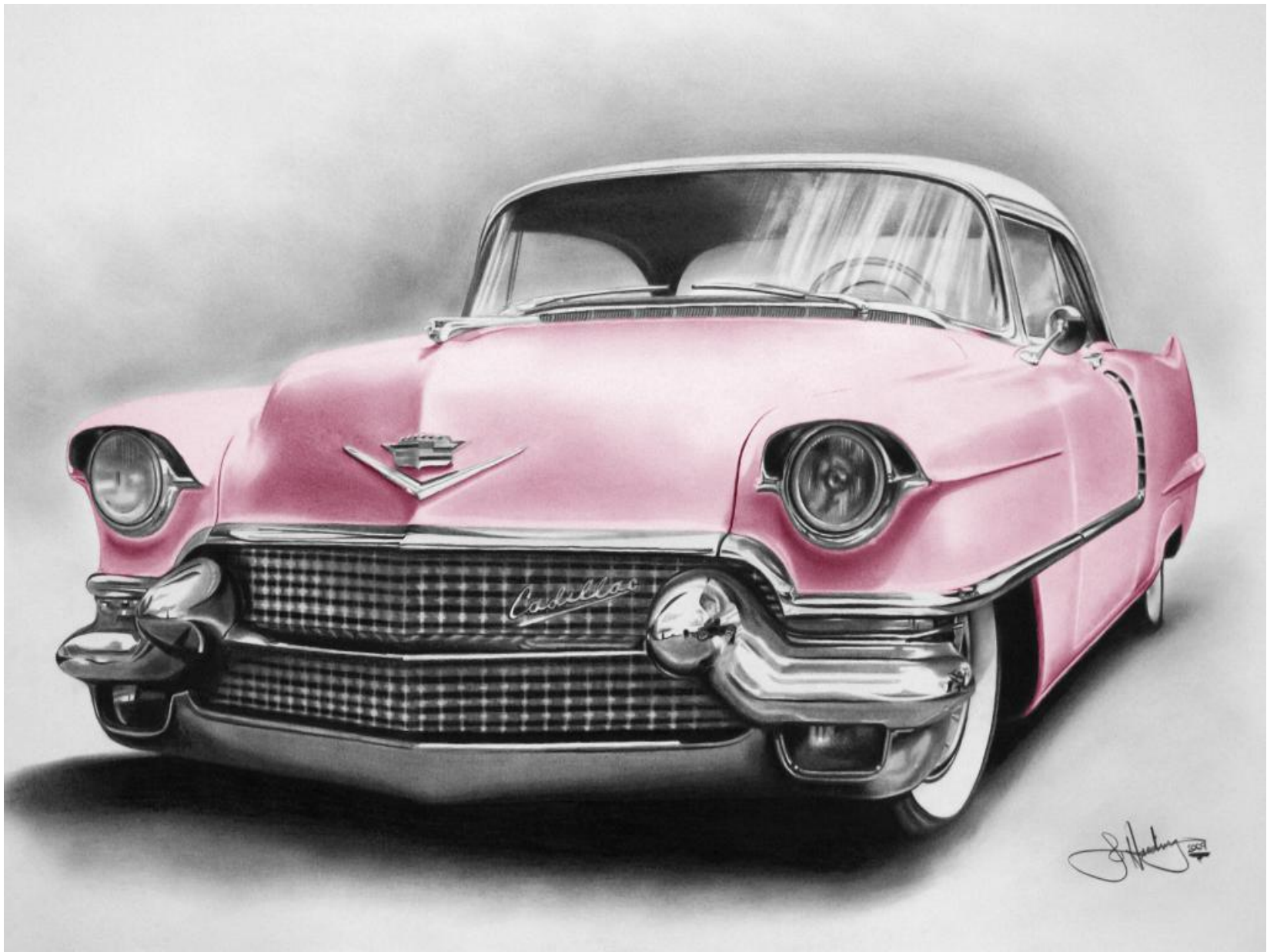
- Effective 1/1/2018

- **Employer Shared Responsibility**

- Originally effective 1/1/2014
- Implementation delayed until 1/1/2015 (100+ employees) and 1/1/2016 (50-99 employees)

The Cadillac Tax

- Effective January 1, 2018
- Imposes a 40% excise tax on high cost health insurance plans, with annual premiums in excess of:
 - \$10,200 for single coverage
 - \$27,500 for family coverage
 - Tax is on amount above \$10,200 / \$27,500
- Higher thresholds for “high risk” professions and employers with disproportionately older population
- Tax will be assessed against:
 - health insurance issuer (fully insured plans)
 - plan administrator (self-insured plans)
- Further guidance will be issued by the IRS, with regard to possible adjustment of the thresholds, and mechanism for payment of the tax



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"Susan, hold all calls for the next six hours. I'm trying to comprehend the Affordable Care Act."

Employer Shared Responsibility

- Originally effective January 1, 2014; postponed to January 1, 2015
- Also referred to as “Play or Pay”
- Employers bear part of the responsibility for making sure that everyone has health insurance coverage
- Applies only to large employers (as defined by the law) - no requirements for small employers to offer coverage
 - “Transition relief” available for certain large employers in 2015

Is It a Mandate?

- Not a **mandate**, but
- Imposes a **penalty** on large employers that either:
 - **Do not offer coverage** to substantially all eligible full-time employees (defined by the ACA as working 30 hours or more per week); or
 - **Do offer coverage**, but that coverage does not meet key criteria

Who Must “Play or Pay”?

- “Applicable Large Employers” (ALEs) – those with at least 50 full-time / full-time equivalent employees
 - “Full-time” employees defined as those working 30 or more hours per week
 - “Full-time equivalents” (FTEs) counted when determining if group is a Large Employer, but do not all have to be offered coverage
- For 2015 only - “Transition relief” for employers with 50-99 full-time / full-time equivalent employees

Counting Your Employees

- To determine how many “employees” you have, calculate how many full-time employees and full-time equivalents (FTEs) you have, then add together
- Full-time employees – at least 30 hours per week
- Includes all “hours of service”
 - Those hours for which the employee is paid or entitled to be paid
 - Includes vacations, holidays, disability, etc.
 - Employer may calculate based on 130 hours per month rather than 30 hours per week, as long as consistent across workforce

Counting Your Employees - FTEs

- Full-time equivalents – less than 30 hours per week
 - Calculate “hours of service” for all of these employees in a month
 - Add all hours together
 - Divide by 120
 - This will tell you how many full-time equivalents you have

Counting Your Employees - Example

Anytown has 40 full-time employees, each working 30+ hours per week, or 130+ hours per month

Anytown also has 20 part-time employees, each working 60 hours per month

Calculate “hours of service” for part-time employees:

$$20 \times 60 = 1,200 \text{ hours of service per month}$$

Divide this by 120

$$1,200 / 120 = 10$$

Anytown has 10 full-time equivalents

40 full-time employees + 10 full-time equivalents = 50 FT/FTEs

Anytown is an Applicable Large Employer, and is subject to the Employer Shared Responsibility provision of the ACA

Counting Your Employees

- Certain employees may not need to be counted when determining employer size
 - Seasonal workers – Generally included, **but**:
 - **if** workforce exceeds 50 for 120 days or fewer / calendar year, **and**
 - **if** the employees in excess of 50 during that time period were seasonal workers, **then**
 - Employer is not large employer
 - “Bona fide volunteers” – Final regs stated that “hours of service” do not include hours worked as a “bona fide volunteer”
 - Employee of government entity
 - Only compensation is reimbursement, or reasonable allowance, for reasonable expenses incurred in performance of duties; or reasonable benefits and nominal fees
 - Could include volunteer firefighters/ EMTs
 - What are “nominal fees”??
 - Recommendation: Consult your attorney

(When) Will You Play or Pay?

- Add full-time employees plus full-time equivalents together to determine if you must “play or pay” in 2015
- Do this for at least six consecutive months (your “measurement period”) in 2014
 - If the total is:
 - **100 or more** – you are subject to the Employer Shared Responsibility provision effective **1/1/2015**
 - **50-99** – you are subject to the Employer Shared Responsibility provision effective **1/1/2016**
 - Note: Employer cannot have restructured workforce solely to drop below 100 employees
 - **Less than 50** – you are **not** subject to the Employer Shared Responsibility provision (at least, not for now.....)
- Repeat this process, but using 12 month “measurement periods” in 2015 and every year thereafter



" The one thing they could reform in healthcare is these gowns. "

Who Must Be Offered Coverage?

- To avoid the penalty, an Applicable Large Employer (ALE) must offer minimum value, affordable coverage to:
 - Full-time employees
 - Working 30 or more hours per week (130 hours per month)
 - At least 95% (70% for 2015 only)
- Special rules / measurements for:
 - Variable hour employees
 - Part-time employees
 - Seasonal employees
 - Limited to positions for which customary annual employment is six months or less
 - Adjunct faculty
 - On call employees
 - Employers must use “reasonable method” for determining hours of service

Measurement Periods (1)

Different ways of “measuring” employees’ hours to determine if they are full-time

- Monthly Measurement Period
 - Calculate hours each month
 - Offer coverage beginning no later than first of the month following three full months of eligibility (130+ hours per month)
 - May be difficult to administer, especially for larger employers
 - If employee works less than 130 hours some months, does coverage still need to be offered for those months?
 - Employer could use this method for certain groups of employees, and look-back method for other groups

Measurement Periods (2)

- Look-Back Measurement Period
 - “Look back” to see which employees averaged 30 hours per week in a prior period (“standard measurement period”)
 - New employees evaluated based on “initial measurement period”, pegged to their start date
 - Measurement periods may be 3 – 12 months long
 - For 2014 only, may use 6 month standard measurement period
 - Treat those employees as full-time going forward (“stability period”) – regardless of actual hours worked
 - Stability period may be 6 – 12 months long
 - Stability period must be at least as long as measurement period
 - “Administrative period” – employer determines eligibility for coverage
 - Administrative period may not exceed 90 days
 - Generally overlaps with prior year stability period

	2014				2015				2016			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
2015 Plan Year		Green	Red		Blue							
2016 Plan Year				Green	Red	Blue						

	2014				2015				2016			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Hired - 5/15/14		Green	Red		Blue							
Plan Year 2016				Green	Red	Blue						

Green = Standard Measurement Period
 Red = Administrative Period
 Blue = Stability Period

What Is the Penalty, and Who Will Have To Pay It? (1)

- An employer that **does not offer** Minimum Essential Coverage to “substantially all” full-time employees will be responsible for paying a penalty **if:**
 - at least one full-time employee obtains coverage through the Exchange, **and**
 - that employee receives a subsidy to help pay for coverage
- Penalty is equal to \$2,000 annually for each full-time employee employed by the employer, not counting the first 30 employees
- Transition relief for 2015 only - Penalty is equal to \$2,000 annually for each full-time employee employed by the employer, not counting the first 80 employees

What Is the Penalty, and Who Will Have To Pay It? (1)

Example:

Anytown has 100 full-time employees. Anytown **does not offer** Minimum Essential Coverage to its full-time employees. One full-time employee goes to the Marketplace and receives a subsidy.

Anytown is subject to the following penalty in 2015:

$$\$2,000 \text{ annually} \times (100 - 80) = \$2,000 \times 20 = \$40,000$$

Using the same scenario, Anytown would be subject to a \$140,000 penalty in 2016:

$$\$2,000 \text{ annually} \times (100 - 30) = \$2,000 \times 70 = \$140,000$$

Actual penalty will be calculated on a monthly basis.

What Is the Penalty, and Who Will Have To Pay It? (2)

- An employer that **does offer** Minimum Essential Coverage to “substantially all” full-time employees will be responsible for paying a penalty **if**:
 - at least one full-time employee obtains coverage through the Exchange, **and**
 - that employee receives a subsidy to help pay for coverage
- Penalty is equal to **the lesser of**:
 - \$2,000 annually for each full-time employee employed by the employer, not counting the first 30 employees, **or**
 - \$3,000 annually for each full-time employee that enrolls in coverage, and receives a subsidy, through the Exchange
- Note: Transition relief for 2015 only - Penalty is equal to the lesser of \$2,000 annually for each full-time employee employed by the employer, not counting the first 80 employees, **or**

What Is the Penalty, and Who Will Have To Pay It? (2)

Example:

Anytown has 100 full-time employees. Anytown **does offer** Minimum Essential Coverage to at least 95% of its full-time employees. One full-time employee goes to the Marketplace and receives a subsidy.

Anytown is subject to the following penalty in 2015:

The lesser of:

$$\begin{aligned} & \$2,000 \text{ annually} \times (100 - 80) = \$2,000 \times 20 = \$40,000 \quad \underline{\text{or}} \\ & \$3,000 \text{ annually} \times 1 = \$3,000 \end{aligned}$$

Actual penalty will be calculated on a monthly basis.

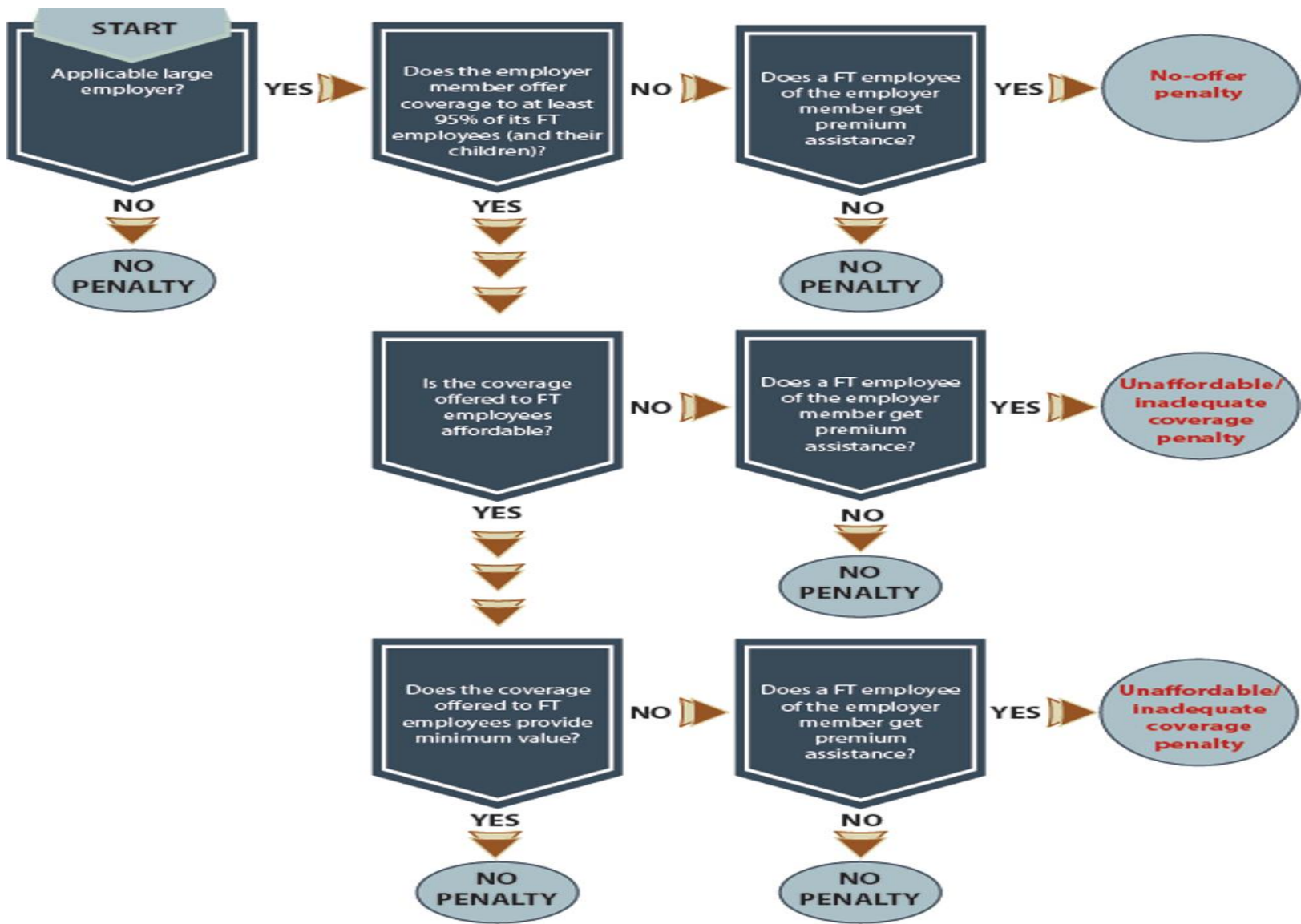
How Will the Penalty Be Assessed?

According to the IRS:

- Employer will not make a payment with a return
- IRS will determine amount and notify employer
- Employer will have opportunity to respond before assessment
- IRS will send a notice and demand after assessment
 - From: *Employer Shared Responsibility Provisions - What Government Employers Need to Know*; IRS Presentation, July 24, 2014

How Can A Large Employer Avoid the Penalty?

- A large employer may avoid the penalty by doing all of the following:
 - Offer **Minimum Essential Coverage** to “substantially all” full-time employees and (after 2014) their dependents (children to age 26)
 - Ensure that the plan provides **Minimum Value**
 - Ensure that the employee’s premium contribution for self-only coverage for the lowest-cost, Minimum Value plan is **Affordable**



What Is “Minimum Essential Coverage”?

- Minimum Essential Coverage includes coverage under employer-sponsored plan
- Must be offered to “substantially all” eligible full-time employees
- “Substantially all” = at least 95% of eligible full-time employees (i.e., employees working 30 or more hours per week)
 - Transition relief for 2015 only - “Substantially all” = at least 70% of eligible full-time employees
- After 2014, coverage must also be offered to dependent children to age 26
 - Health Trust plans all provide Minimum Essential Coverage

What Is “Minimum Value”?

- Minimum Value = actuarial value of at least 60%
- Plan’s share of the total allowed cost of benefits provided under the plan is at least 60% of the costs
- Examples of Minimum Value plans:
 - \$3,500 ded (med/Rx); 80%; \$6,000 OOP
 - \$3,500 ded (med); \$0 ded (Rx); 60% med; 75% Rx; \$6,400 OOP; Rx copays \$10/\$20/\$50/75%
 - Health Trust plans all provide Minimum Value

When Is Coverage “Affordable”?

- Employee’s premium contribution for self-only coverage for the employer’s lowest cost, Minimum Value coverage may not exceed 9.5% of household income
 - Difficult for employers to know household income
 - Employers may use one of three “Safe Harbors” instead of actual household income
 - Federal Poverty Level (2014 annual FPL for single = \$11,670)
 - Form W-2 (as noted in Box 1 of that year’s W-2)
 - Rate of Pay (employee’s hourly rate x 130)
- Affordability will be determined at the individual employer level

Determining Affordability - Federal Poverty Level Safe Harbor

- Using the Federal Poverty Level “safe harbor” method for calculating whether a plan is Affordable:
 - 2014 Single FPL = \$11,670 (annual)
 - 9.5% of that = \$1,108.65 (annual)
 - Employee’s premium contribution for self-only coverage cannot exceed \$92.39 per month
 - Based on 2014 FPL

Determining Affordability - W-2 and Rate of Pay Safe Harbors

- Using the W-2 and Rate of Pay safe harbors will require the employer to look at the **lowest paid employee** in each contribution category, to determine whether coverage is Affordable
- If Affordable for the lowest paid employee, will be Affordable for all others

Recap – How Can Large Employers Avoid the Penalty?

- Minimum Essential Coverage
- Minimum Value
- Affordability

Remember:

- Employer is only subject to penalty **IF** at least one full-time employee enrolls in coverage, **and** receives a premium subsidy / tax credit, through the Exchange (now referred to as the Health Insurance Marketplace)



Who Is Eligible for a Subsidy Through the Exchange?

- Employee is eligible for subsidy if:
 - Between 100% and 400% of Federal Poverty Level;
 - Not eligible for coverage through a government-sponsored health insurance programs such as Medicaid or CHIP;
 - Not eligible for employer-sponsored coverage; or, eligible for employer-sponsored coverage but such coverage is considered to be **unaffordable** or does not provide minimum value

Who Is Not Eligible for a Subsidy Through the Exchange?

- If an employee has access to employer-sponsored coverage that meets the definitions of **Minimum Essential Coverage, Minimum Value, and Affordable**, that employee **and his dependents** will not be eligible to receive a subsidy through the Exchange

Will You Be Subject to a Penalty?

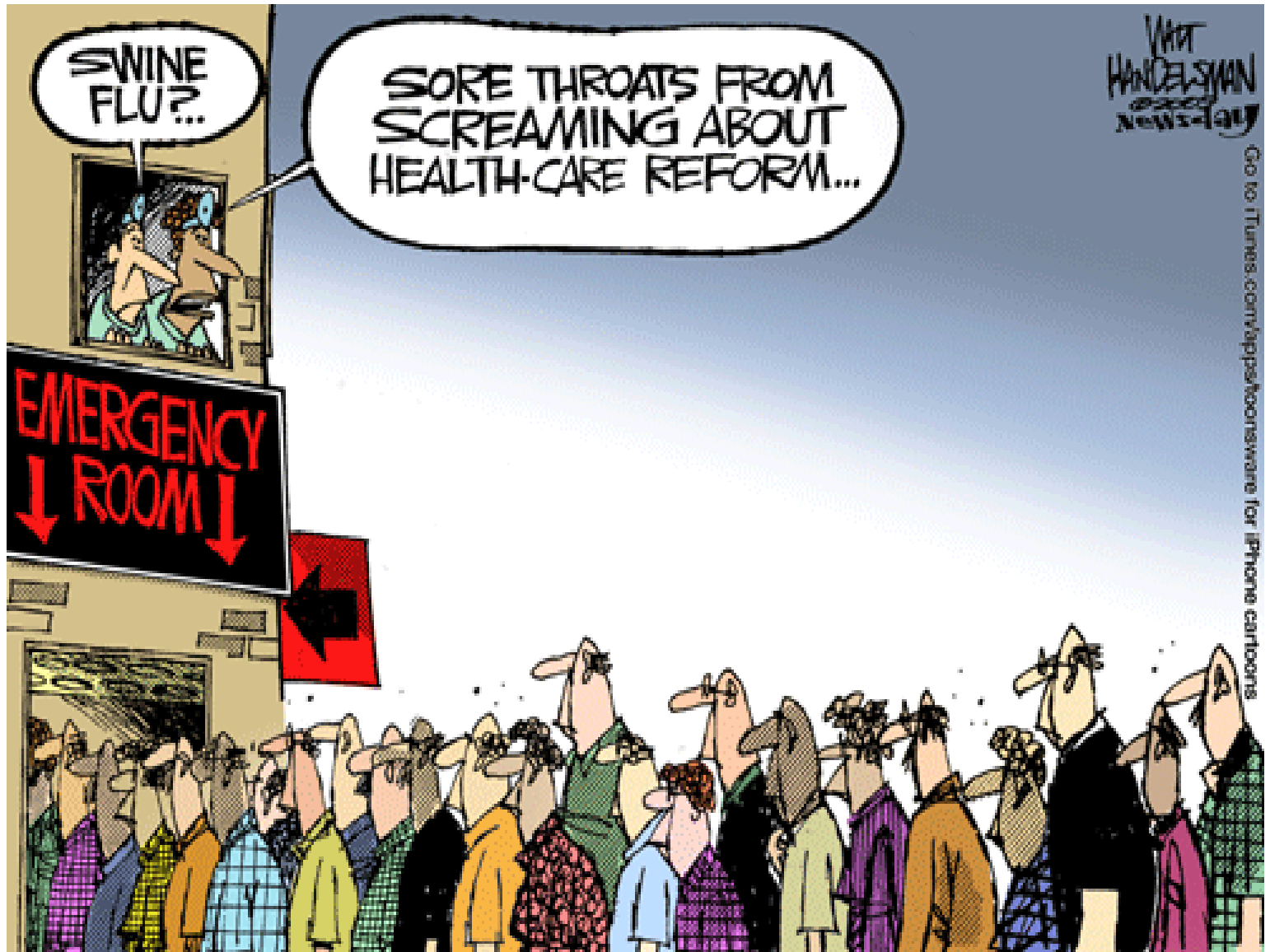
- If a large employer offers coverage that meets the definitions of **Minimum Essential Coverage**, **Minimum Value**, and **Affordable**, to **substantially all** (at least 95%) of its eligible **full-time employees** (working 30 or more hours per week), those employees who are offered coverage **and their dependents** will not be eligible to receive a subsidy through the Exchange
 - Transition relief for 2015 only – “Substantially all” = at least 70% of eligible full-time employees
- If no employees receive a subsidy, then the employer is not subject to a penalty
- All MMEHT health plans constitute Minimum Essential Coverage, and all provide Minimum Value
- Affordability will be determined at the individual employer level

The Search for Affordability

- Remember:
 - The Health Trust offers seven different health plan options
 - Each employer in the Health Trust can offer up to three different health plans
 - Affordability is based upon the **lowest cost** minimum value plan offered by the employer
 - Even if the plan you offer now is not “affordable”, there may be other lower cost options available

Is the Penalty Really Such a Bad Thing?

- Let's say that you do offer affordable coverage to "substantially all" your employees, but at least one employee (not offered affordable coverage) goes to the Marketplace and receives a premium subsidy
- Penalty is equal to **the lesser of:**
 - \$2,000 annually for each full-time employee employed by the employer, not counting the first 30 employees, **or**
 - Transition relief for 2015 only - Penalty is equal to the lesser of \$2,000 annually for each full-time employee employed by the employer, not counting the first **80** employees
 - \$3,000 annually for each full-time employee that enrolls in coverage, and receives a subsidy, through the Exchange
- How does this compare to the cost of health insurance?



Go to iTunes.com/apps/itunesware for iPhone cartoons

Friday Afternoon Fun

- Sign Up for the Health Trust's Health Care Reform E-Mail Updates
- To sign up, e-mail Anne Wright at **awright@memun.org**
- Updates may also be found on the Health Trust's website, at **www.mmeht.org**
 - Click on the link for Health Care reform

*Please note that the Maine Municipal Association
and the Maine Municipal Employees Health Trust
are sharing this information to assist you with
your compliance planning.*

*We recommend that you contact
your legal counsel
with specific questions relating to this law.*

GENERAL QUESTIONS?

*Contact: Anne M. Wright
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awright@memun.org*