



# Possible Changes to the ACA under the New Administration

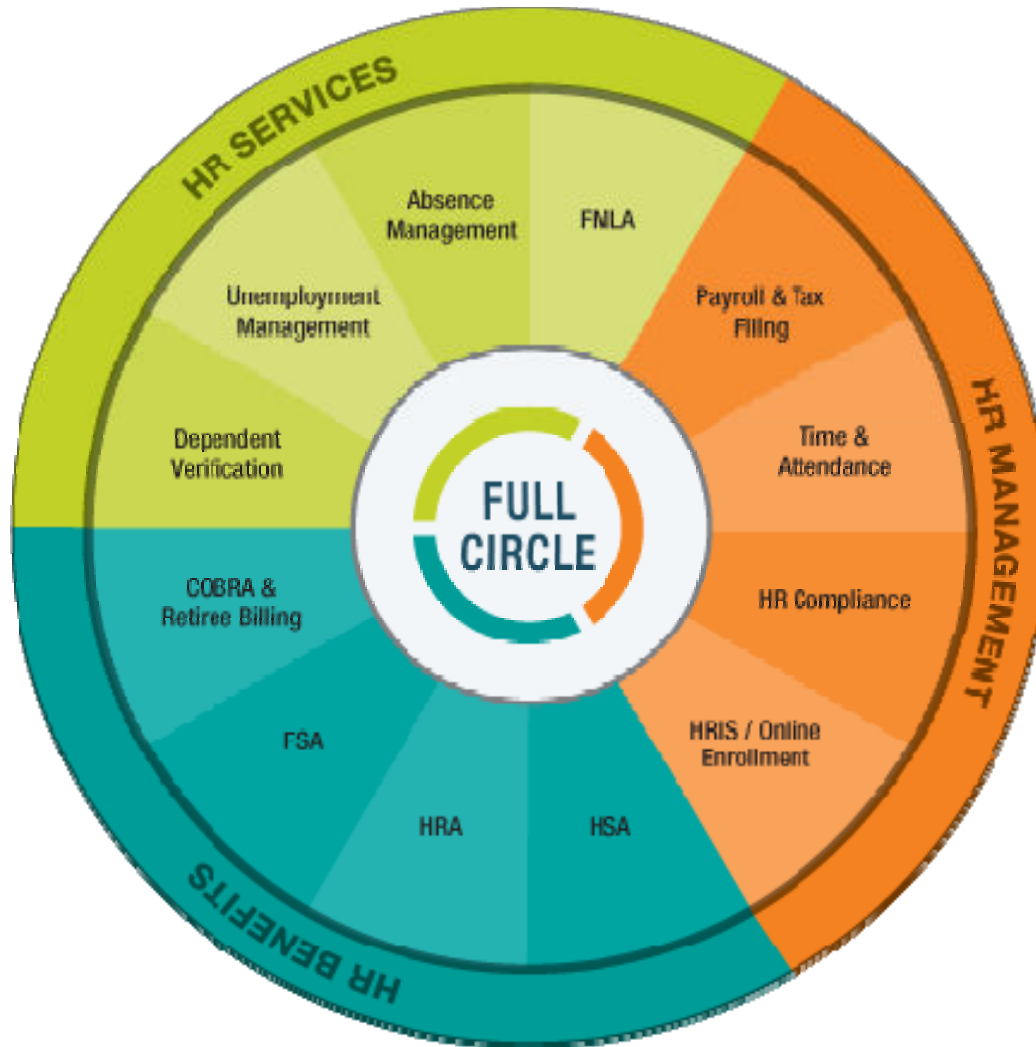
Presented by: Mary Bauman



- HR Benefits
- HR Management
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# Update on 1094-C and 1095-C Filing

# Quicker Deadlines



- For 2015 (the first year the 1094-C and 1095-Cs were required), the IRS extended the normal deadlines for distribution to employees and filing with the IRS
- Up until last month, the IRS indicated that the normal deadlines would apply, however, for 2016 and later years

# Quicker Deadlines



- The normal deadlines are:
  - The first business day on or after January 31 for the distribution of the 1095-Cs to employees
  - The first business day on or after February 28 for filing the 1094-C transmittal form and the 1095-Cs with the IRS if by mail
  - The first business day on or after March 31 for filing the 1094-C transmittal form and the 1095-Cs with the IRS if electronically

# Quicker Deadlines



- Last month, the IRS indicated that it was postponing the normal deadline for distribution of the 1095-Cs to employees for 2016 from January 31, 2017 to March 2, 2017
- The IRS relief does not extend the 1095-C employee distribution deadline for any subsequent years
- Further, the IRS relief does not apply to the filings required with the IRS for 2016 which continue to be due on February 28, 2017 or March 31, 2017

# Quicker Deadlines



- Question: until the Trump administration further postpone the employee statement deadline and/or postpone the IRS filing deadline?





# No More Good Faith Relief?



- \$260 per return penalty for late, incorrect or incomplete forms
- IRS indicated it would not assess penalties in first year for incomplete or incorrect filings if employer made good faith effort
- Last month, the IRS extend good faith relief to 2016 returns but not beyond

# No More Good Faith Relief?



- Question: Will the Trump administration further extend good faith relief (if reporting continues)?

# New Forms



- New forms and instructions for 2016 recently released
- Forms for 2016 will be different
  - 1094-C
    - Mid-size employers – transition relief/special reporting only available for non-calendar year plans (and until 2016 plan year start)
    - Special qualifying offer relief for 2015 eliminated

# New Forms



- 1095-C
  - New instruction to individuals not to attach to tax return
  - Plan start month still optional
  - Line 14 – clarification that must be completed for all 12 months or each month (no blanks)
  - If spouse's offer of coverage is conditioned on not being eligible for other employer coverage, two new indicator codes for Line 14 (1J and 1K)
    - Spousal eligibility vs. surcharge?
  - If rely on qualifying offer in Line 14 can leave Line 16 blank or complete

# Update on Affordability



- Last December the IRS announced that it would issue regulations to require employers who provide additional compensation to employees who opt out of group health coverage to include that amount when measuring for affordability for pay or play penalty purposes
- In the notice, the IRS also indicated that there may be a special rule where the opt out is conditioned on the employee having other group health coverage

# Update on Affordability



- This summer the IRS announced that while it has not yet issued regulations to implement this new rule, the earliest the rule will apply is for plan years beginning on or after January 1, 2017
- In addition, in the new announcement the IRS indicates that opt out arrangements which require employees to provide reasonable evidence that the employee, spouse and dependents have other health coverage will not be included in measuring affordability

# Update on Affordability



- “Reasonable evidence” includes attestation or certification (actual proof not required)
- Other health coverage cannot include individual coverage (private market or exchange)
- Attestation or certification should include entire period for which coverage is being waived
- Question: Will the Trump administration issue regulations implementing this rule?



# Changes for 2017



# Changes for 2017



- Medical FSA annual employee contribution limit increasing from \$2,550 to \$2,600
- HSA annual contribution limits
  - Single coverage – increasing from \$3,350 to \$3,400
  - Family coverage unchanged at \$6,750
  - Age 55 catch-up unchanged at \$1,000

# Changes for 2017



- Maximum out-of-pocket limits
  - All plans – increasing from \$6,850 (single)/\$13,700 (family) to \$7,150 (single)/\$14,300 (family)
  - HDHPs with HSAs – unchanged at \$6,550 (single)/\$13,100 (family)

# Changes for 2017



- Adjuster for determining affordability
  - Increasing from 9.66% to 9.69% for plan years beginning in 2017
  - Example: For calendar year plan, the federal poverty line safe harbor for 2017 will be  $\$11,880 \times 9.69\% = \$1,151.17 \div 12 = \$95.93$  per month

# Changes for 2017



- Transition reinsurance fee
  - Decreasing from \$27 per participant to \$0 (sunsets after 2016)
- PCORI fee
  - Increasing from \$2.17 per life for plan years ending on or after October 1, 2105 and before October 1, 2016
  - To \$2.26 per life for plan years ending on or after October 1, 2016 and before October 1, 2017
  - Sunsets for plan years beginning on or after October 1, 2019



# Possible Legislative Proposals



# Possible Legislative Proposals

- Now that the election is over, those watching Congress and the White House have already begun speculating on whether there will be any changes to the Affordable Care Act
- Repeal and replace?
  - Repeal Need filibuster-proof Senate majority of 60 to repeal
  - GOP majority is 51 or 52
  - Speculation that any repeal legislation would have a delayed effective date to provide time to enact a replacement plan



# Possible Legislative Proposals

- Replace Only need simple majority of 51 in Senate to make changes through budget reconciliation
  - But only ACA changes which affect revenues or expenditures can be made through budget reconciliation
  - Budget reconciliation can't change certain provisions - prohibition on annual and lifetime dollar limits, ban on pre-existing condition exclusions, dependent child eligibility until age 26
  - But Trump unlikely to want to repeal these politically popular ACA provisions anyway

# Possible Legislative Proposals



- Trump proposals
  - Eliminating individual mandate penalty
    - What will happen to exchanges?
    - Will premium tax credits and subsidies be reduced or eliminated?
    - What will be the replacement plan to ensure all individuals have access to coverage?
    - Will the “guaranteed” coverage be affordable for most? All?





# Possible Legislative Proposals

- Allowing health insurance to be purchased across state lines
  - If policy approved by regulators in one state it may be sold in other states
- Providing full tax deduction for purchase of individual insurance policies
- Making HSAs more attractive
  - Tax-free contributions in all circumstances
  - Increase contribution limits
  - Expand tax-free distribution rules – definition of dependent
  - Transfer balance to estate upon death with no penalty



# Possible Legislative Proposals

- Promoting more price transparency from health care providers
- Making block grants to states for Medicaid
  - Roll back Medicaid expansion?
- Permitting patients to purchase drugs from foreign countries



# Possible Legislative Proposals

- Other proposals?
  - Repealing the employer mandate (pay or play penalty)
    - Alternatively, modify definition of FT from 30 to 40 hours/week
    - Simplify reporting
  - Modifying or eliminating the Cadillac Tax
    - Delay
    - Modify – remove HSAs and FSAs from consideration
    - Repeal
    - Find replacement revenue source



# Possible Legislative Proposals

- Broadening the rules for HRAs and FSAs
  - Increase FSA contribution limit
  - Permit tax-free reimbursement of more expenses – OTC drugs



# Possible Legislative Proposals

- The Trump administration is also likely to weaken the ACA through not enforcing regulations, discontinuing regulation projects in the pipeline and not defending court cases challenging the ACA
  - Proposed 5500 regulations
  - Project to issue Cadillac Tax regulations
  - Regulations regarding impact of opt-out on affordability
  - Nondiscrimination regs for fully-insured health plans
  - Guidance on employer purchase or reimbursement of individual policies for employees



# Possible Legislative Proposals



- Contraceptive coverage
- Transgender health benefits



# Questions



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# Contact the Presenter



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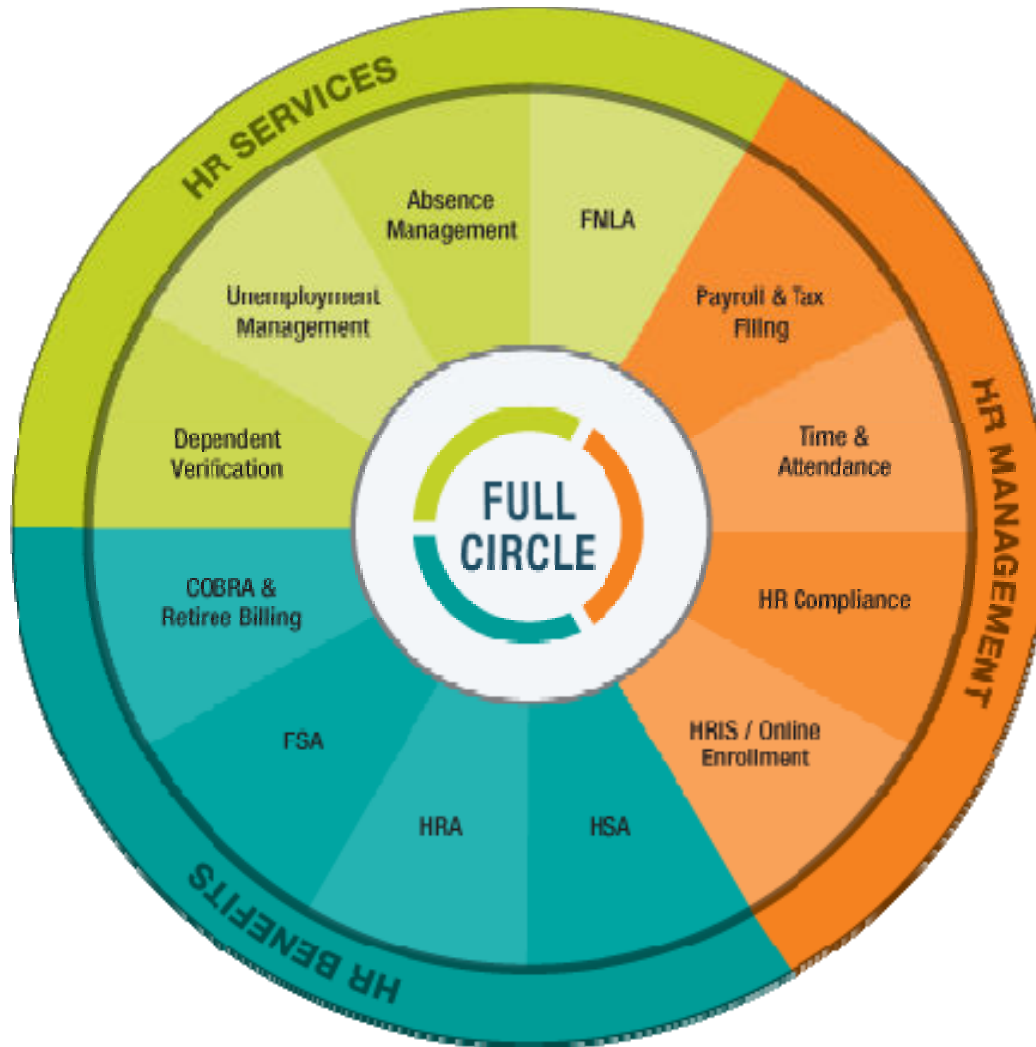
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