Health Care Reform Implications for ABC Company

Employer Mandate

		Provision	Effective Date	*Implications for Large Employers*
1	**Play or Pay Penalty for not offering coverage**	$2,000 per FTE, indexed. FTE defined as 30 or more hours per week. No requirement for PTE coverage. No minimum employer subsidy required.	2014	*This penalty for not offering coverage might be so low as to encourage some employers to drop coverage.*
2	**Minimum Value of Employer Coverage**	If actuarial value of the plan is below 60%, employees under 400% FPL are eligible for subsidized Exchange coverage and if elected, employer is assessed the play and pay penalty.		*To avoid penalties employers will need to provide plan with actuarial value of at least 60%.*
3	**Pay and Play Penalty for opt-outs electing coverage through the Exchange**	$3,000 (indexed) for FTEs who enroll in Exchange and receive subsidy; aggregate cap of $2,000 times total number of FTEs.		*Even employers who offer a qualifying plan can be subject to penalties for opt-outs; Limited to low-income waivers.*
4	**Employee Vouchers for Exchange**	Employers must offer cash vouchers to employees under 400% of federal poverty level with contributions between 8.0% to 9.8% of household adjusted gross income (AGI).		*Increases potential of anti-selection. However, limited number of employees may be eligible.*
5	**Employer Reporting Requirements**	Reporting to both Secretary and employees regarding minimum essential coverage.		*Similar to Part D Creditable Coverage notices; increased administrative burden.*

Individual Mandate

6	**Play or Pay Penalty**	Greater of 1.0% of AGI or $95/person in 2014, 2.0% or $325/person in 2015, 2.5% or $695/person in 2016; indexed. Family dollar amount capped at 300% of individual penalty.	2014	*Employer cost will increase with higher enrollment with fewer waivers.*
7	**“Unaffordable” Employer Coverage for Employees Under 400% of FPL**	If employee contributions are above 9.5 % of AGI – the employee is eligible for subsidized Exchange coverage and employer is assessed the play and pay penalty.		*If the required employee contribution is above this limit, employees under 400% FPL are eligible for subsidized Exchange coverage.*

Provisions Applying to Employer Plans

8	**Expansion of Child Coverage**	Up to age 26 if not eligible for other group coverage.	Plan years beginning on or after Sept. 23, 2010	*Increased enrollment and costs for covering more dependents.*
9	**Income Tax Exclusion of Employer Health Benefits**	Expanded to include adult children through year in which child turns 26.		*Simplifies payroll administration*
10	**Lifetime Limits**	Lifetime limits prohibited for essential benefits.		*Plans might need to be improved; stop-loss would become more important.*
11	**Restricted Annual Limits**	Unreasonable annual limits prohibited for essential benefits.		*Plans might need to be improved; stop-loss would become more important.*
12	**Cost Reporting and Rebates**	Rebates to enrollees for insured plans with loss ratio below 85%.		*Employers may need to establish refund mechanism.*
13	**Uniform Explanation of Coverage**	Federally prescribed appearance, content, language and timing. Notice due within two years of enactment.		*Will need to be coordinated with other employee communications materials.*
14	**Pre-existing Condition Exclusions for Children**	Pre-existing exclusions prohibited for children under 19.		
15	**Reporting Plan Value on W-2**	Yes.	2011	*Value of coverage is disclosed but not taxed directly to employees.*
16	**Standardize Definition of Medical Expenses**	Prohibits reimbursement of over the counter drugs from FSAs, HRAs and HSAs.		*May require amendments to spending account programs.*
17	**HSA Nonqualified Withdrawals**	Penalty for increased from 10% to 20%.		*Plan sponsors may want to communicate.*
	Health FSA Cap	Capped at $2,500 in 2013; indexed	2013	*Employer redesign required.*
18	**Pre-existing Condition Exclusions for all Enrollees**	Pre-existing exclusions prohibited for all enrollees.	Plan years beginning on or after January 1, 2014	*Reduced job lock might spur higher turnover.*
19	**Annual Limits**	Annual limits prohibited for essential benefits.		*Plans might need to be improved; stop-loss would become more important.*
20	**Auto Enrollment**	Auto enrollment required with employee having ability to opt out of coverage. Effective date not clear.		*Increased cost due to higher enrollment and more complex administration.*
21	**Waiting Periods**	Waiting periods over 90 days not permitted.		*A critical provision for high-turnover firms.*
22	**"Cadillac Plan" Excise Tax**	40% tax on value above $10,200/individual and $27,500/family (Indexed at CPI-U+1% for 2019, CPI-U only after 2019). Higher indexing based on retirees, high risk industry, age and gender. Excludes dental and vision. For multiemployer plans all coverage is considered family.	2018	*Deferral of excise tax to 2018 mitigates impact. However, in 2018 the tax will apply to many employer plans. Elimination of executive programs.*

Provisions that do not apply to Grandfathered Employer Plans

23	**Preventive Care**	Preventive care services covered at 100%.	Plan years beginning on or after Sept. 23, 2010	.
24	**Discrimination Requirements**	No discrimination in favor of highly compensated employees under insured plans.		
25	**OB/GYN, Pediatrician, ER Services**	No preauthorization or referral can be required.		
26	**Appeals Process**	Mandatory internal and external appeals process.		*Similar to current ERISA requirements.*
27	**HIPAA Wellness Incentives**	Codifies HIPAA Wellness incentives, but with a maximum differential of 30%; Secretary can raise to 50%.	Plan years beginning on or after January 1, 2014	*May be drafting error that this provision does not apply to grandfathered plans.*
28	**Required Service Categories & Coverage**	Mandatory statutory list, to be supplemented by Secretary of HHS. Limited to insured plans.		
29	**Maximum Out-of-pocket Limit**	Cannot exceed the OOP limit for HSA-compatible HDHP; indexed.		

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		Provision	Effective Date	*Implications for Large Employers*

Retiree Health

30	**Reinsurance Program for Early Retirees (55-64)**	$5B to subsidize 80% of costs between $15K-$90K. Terminates December 31, 2013 or when funds expended.	June 21, 2010	*Temporary bridge to support employer retiree plans until Exchange is effective; administration appears similar to RDS.*
31	**Application of Plan Requirements to Retiree Plans**	Review of retiree programs for compliance with plan requirements.	Various	*Could have significant FAS/GASB implications.*
32	**Phase out of Donut Hole**	$250 rebate in 2010 for beneficiaries who reach donut hole. Phases out donut hole by 2020 in combination with brand drug discount.	2010	*Makes participation in Part D more attractive to employers relative to RDS. May result in plans failing actuarial equivalence.*
33	**Brand Drug Coverage in Part D Donut Hole**	Drug manufacturers required to discount brand drugs in donut hole by 50%.	2011	*Makes participation in Part D more attractive to employers relative to RDS.*
34	**Means Based Medicare Part D Premiums**	Increased for higher income retirees.		*Makes employer-provided Rx that much more attractive to high income retirees.*
35	**Medicare Advantage Plan Funding**	Payments frozen in 2011; reduced benchmarks starting in 2012.		*Increased retiree premiums for Medicare Advantage plans; reduced enrollment.*
36	**Taxability of RDS Payments to Employers**	Yes. While taxability is not effective until 2013, non-public employers will need to reflect impact in first quarter 2010.	2013	*Increases retiree plan costs; makes employer Part D (EGWP) plans more attractive.*

Insurance Market Reform for Individuals and Small Groups

37	**Minimum Benefit Package**	Bronze, Silver, Gold and Platinum with actuarial values of 60% - 90%.	2014	*Sponsors would retain some (but not complete) latitude in setting plan design for programs offered through the Exchange.*
38	**Guaranteed Issue and Renewability**	Yes. Also includes interim high risk pool for currently uninsured (starting 90 days after enactment).		*More robust individual market is especially valuable to former employees and retirees.*
39	**Community Rating – Limits on Age Rating**	3 to 1 ratio maximum (50% surcharge also permitted for tobacco use).		*The need for COBRA declines but adverse selection worsens.*
40	**Medical Loss Ratios - Minimum Standards**	80% individual market and small groups; 85% Group market.	Plan years beginning on/after March 23, 2010	*More robust individual market is especially valuable to former employees, particularly early retirees.*
41	**Small Employer Subsidies**	Yes, up to 25 employees.	2010	*Will some large employers now be at a competitive disadvantage?*

Purchasing Exchanges

42	**Exchanges**	State-based exchanges for individuals and small employers. In 2017 states can make available to large employers.	2014	*Similar to the Massachusetts Connector. Initially, not available to large employers.*
43	**Low Income Premium Subsidy in the Exchange**	Affordability credits up to 400% of the federal poverty level.		*With generous subsidies to low income, employers might not want to duplicate these efforts with salary-based cost-sharing.*

Taxes

44	**Tax on Indoor Tanning Services**	10% tax on indoor tanning services, starting in July, 2010.	July, 2010	*Generally will not impact employer plans.*
	Pharmacy Manufacturer Tax	$2.5B in 2011 increasing to $4.2B in 2018; $2.8B in 2019+	2011	*Increased cost-shifting.*
45	**Comparative Effectiveness Research**	Tax on insured and self-funded plans of $1/ee/yr first year; $2 second year; indexed thereafter.	Plan years ending after Sept. 30, 2012	*Potential for increased or additional taxes in the future.*
46	**Income Tax Provisions**	Itemized medical deduction threshold increased from 7.5% to 10%.	2013	*Even greater pressure on employers to offer tax-advantaged compensation and benefits.*
47	**Medicare Hospital Insurance Tax**	Tax rate increased from 1.45% to 2.35% starting for high income earners. A new 3.8% tax on net investment income. (Income in excess of $250K joint filers; $200K others)		*Payroll tax increase only applies to employees, not employer. Increased interest by high paid employees in tax deferrals.*
	Medical Device Excise Tax	2.3% excise tax.		*Increased cost-shifting.*
48	**Health Insurance Industry Tax**	$8B in 2014 increasing to $14.3B in 2018; trended after 2018	2014	*Increased cost-shifting.*
49	**Exchange Reinsurance Program**	$25B tax on insurers and TPAs from 2014 to 2016 for Exchange reinsurance program		*Potential for increased cost-shifting.*

Collective Bargained Coverage

50	**Coverage Maintained Under CBA**	For coverage maintained under a CBA ratified before March 23, 2010, all new coverage and cost-sharing rules apply upon the termination of the last CBA relating to the coverage.	March 23, 2010	*Provides needed flexibility for CBA plans.*

CLASS Act

51	**Voluntary Long-term Care Program**	Government run long-term care program. Employers are expected, but not required, to allow for payroll deductions and automatically enroll employees.	2011	*Employers may want to provide supplemental long term care programs*