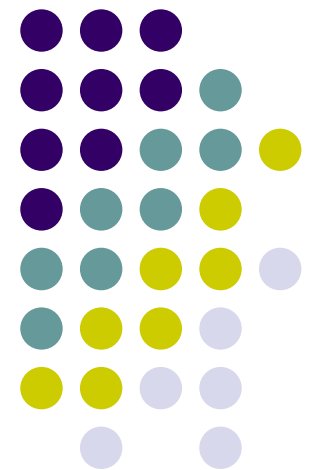
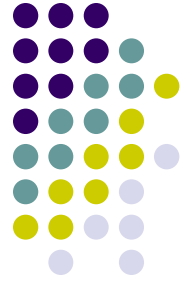


The Business Implications of Health Care Reform



Nancy E. Taylor
Greenberg Traurig



The Process To Date

- House: After the 3 committees of jurisdiction approved similar legislation, a merged bill passed the House by a slim margin of 220-215 on November 7, 2009. On March 21, 2010, the House passed the Senate passed bill (H.R. 3590) by 219-212 and the reconciliation bill (HR 4872) by 220–211. In order for the reconciliation bill to become law, it must be now passed by the Senate.
- Senate: After the 2 committees of jurisdiction passed differing bills, legislation based largely on the Senate Finance Committee’s Bill was passed with the minimum required votes (60-39) on December 24, 2009.
- Administration: President Obama has taken ownership of Health Care Reform with a strong political/policy desire to complete action. The President will be signing HR 3590 shortly.



Individual Obligation

- Individual must have coverage through:
 - Medicare;
 - Medicaid;
 - Eligibility expanded to all individuals under age 65 with incomes up to:
 - 133% FPL
 - Exchanges;
 - Individual
 - Small Group
 - Or Employer Sponsored Coverage.

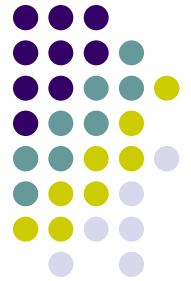


Level of Coverage

- Individual must obtain coverage:
 - Medicaid;
 - Medicare; or
 - Minimum Credible Coverage:
 - 60% Actuarial Value.

Employer Obligation

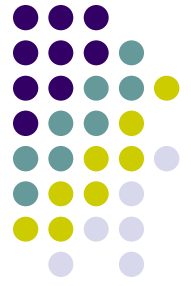
Effective in 2014



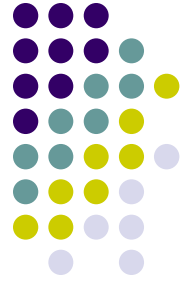
“Free Rider With Modified Firewall”

- No obligation to offer coverage, BUT
- Must pay a fee for any full time employee who receives a government subsidy to purchase coverage.

Modified Firewall: Employer Obligation & Tax Credits

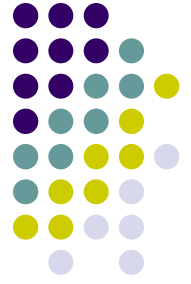


- Limits the flow of funds
 - If employer offers minimum creditable coverage that is affordable, then
 - Individuals cannot opt out and obtain a tax credit to purchase coverage through exchange.
- EXCEPTION: Free Choice Vouchers



Permitted Firewall Exceptions

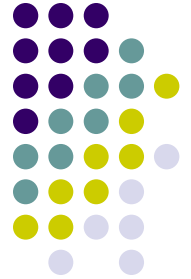
- **Affordability**
 - If employee's share of the premium is unaffordable (exceeds 9.5% of MGI):
 - The employee may be eligible for tax credit; and
 - Employer may have to pay.
- **Minimum Creditable Coverage**
 - If employer's plan does not meet the minimum creditable coverage standard:
 - Employee may get tax credit; and
 - Employer may have to pay.



“Free Rider”

- For employers not offering coverage to all full time employees (defined as working 30 hours per week):
 - If one full time employee gets a tax credit to purchase insurance in exchange:
 - Must pay a fee -
 - \$2,000 x # of all full time employees.
 - *EXAMPLE:*
 - Employer has 200 full time employees.
 - 10 full time employees get government subsidies to purchase coverage in the exchange.
 - Employer would have to pay: $\$2,000 \times 200 = \$400,000$.

“Free Rider” Firewall Exception



- For employers offering coverage to all full time employees:
 - If one full time employee gets a tax credit to purchase insurance in exchange, because unaffordable:
 - Employer must pay a fee which is the lesser of:
 - $\$3,000 \times \#$ of full time employees receiving such subsidies; **or**
 - $\$2,000 \times \#$ of all full time employees.
 - **EXAMPLE:**
 - Employer offers coverage to all 200 full time employees.
 - Coverage is unaffordable for 10 full time employees.
 - These 10 full time employees receive government subsidies to purchase coverage in the exchange.
 - Employer would have to pay \$30,000, because:
 - $\$3,000 \times 10$ FT employees receiving subsidies = \$30,000 is lesser than
 - $\$2,000 \times 200$ FT employees = \$500,000.



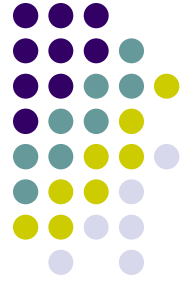
New Firewall Exception:

- Free Choice Vouchers:
 - Individual may opt out of the employer's offered coverage, and
 - Take the employer's contribution amount in the form of a voucher, and
 - Use voucher to purchase coverage in the exchange.
- IF...
 - Although affordable, employee's required contribution exceeds 9.5% of the employee's household income:
 - 9.5% income > employee's contribution > 8% income
 - Employee makes \$10K and his contribution is \$850.
 - And employee's household income \leq 400% FPL.



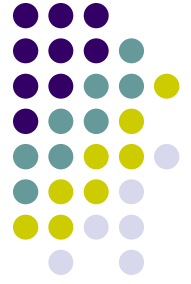
Assessing the Impact

- AHCA surveyed members
 - Gathered data for several facilities on the:
 - Number of employees;
 - Health care coverage offered; and
 - Amount employer contributed toward employee premiums.
 - Assessed how the data compared to the requirements of proposed legislation.



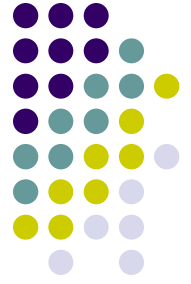
What We Found

- Number of employees
 - Varies (between 23,393 – 1 full time employee):
 - Up to 50 employees – 10 companies/facilities;
 - 50-200 employees – 11 companies/facilities;
 - Over 500 employees – 5 companies/facilities.
- Coverage offered
 - All offer some type of health care coverage:
 - HSA/HDHP;
 - HMO; and
 - PPO.
 - Many offer a choice.



What We Found

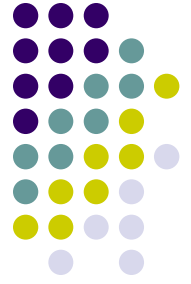
- Contribution towards employee's premium
 - All contribute towards premium for individual employee;
 - Varied methodologies:
 - Fixed dollar amounts; and
 - Percentages of premium.
 - Varied Amounts:
 - Range from 33% - 100%.
- Eligibility requirements
 - Most offered coverage to all full time employees:
 - Although definitions of full time varied from 30 hours to 40 hours.
 - In some instances, eligibility depended on employment credentials.



Assessing Data

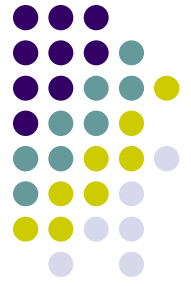
- How we fare under the various health reform proposals:
 - Do we meet the employer requirements?
 - If not, what would our penalties be?

Example of Assessment - Company A



- Data
 - 125 FTE;
 - HMO coverage for full time workers (30 hours per week) after 90 days of continual employment;
 - Employer pays 60% of health care premium.
- Impact
 - Employer offers coverage that presumably has an actuarial value of 60%
 - Affordability for all full time employees is not clear.
 - The penalty that would be assessed *if* coverage is not affordable for all full time employees would be:
 - the lesser of :
 - \$3,000 x # of FT employees that receive govt. subsidy OR
 - \$2,000 x 125 of total FT employees = \$250,000

Example of Assessment - Company B



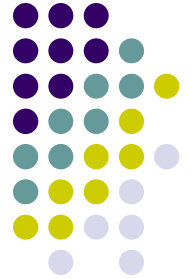
● Data

- 44 Full Time Employees;
- PPO coverage for full time workers (24 hours per week) after 90 days of continual employment;
- Employer pays 50% of health care premium for hourly employees and 100% for salaried employees.

● Impact

- Employer offers coverage
 - Not required to offer coverage = small employer (<50 full time equivalencies) exemption.

Bottom Line: Impact as Employers

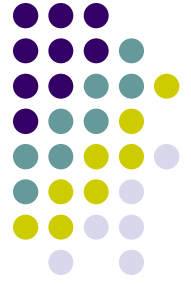


CLOSE...

- Most offer coverage.

But not a slam dunk...

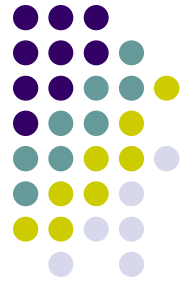
- Coverage likely to be sufficient.
- But, unclear if it will be affordable for all FT employees, as determined by household income.



Where We'll Fall Short

- Benefit eligibility requirements sufficient but definitions are not.
 - Nearly all companies offer coverage to all full time workers,
 - But several companies define a full time employee as one working more than the 30 hour reform definition.
 - i.e. - A company that defines full time workers as those working 32 hours per week, is not offering coverage as required.
 - This company will have to pay.

Where We *May* Measure Up



- Possible sticking points:
 - Affordability exception to firewall provision (9.5% of employee's MGI).
 - Hard to determine if the employee's contribution exceeds 9.5% of their income.
 - Plan must meet minimum coverage requirement of 60% Actuarial Value.