

# IAA Legislative Ledger



Q-2 2014  
April 9, 2014

## Planning for the Inevitable: The Affordable Care Act Fines and/or Taxes

---

### ***Self-Funding Is Often Misunderstood By State Officials!***

*IAA and employers that value their self-funded health plans need your help:*

If you or a client has one of IAA's Level Funding or traditional partially Self-Insured Plans, I ask you to contact your state legislators and tell them about your experience with your Plan. The State is being told **by the uninformed**, that Self-funding does not have to comply with the ACA and other Federal laws. (For those of you that regularly read our Legislative Ledger know this is just not true.) I ask that you call them and let them know the depth of your Plan's benefits and how much money it saves your company every year. The savings allows you to hire new employees or invest in more equipment. I also have a list of all the laws your plan adheres to if you are interested.

### ***Small Group Plans***

A recent bill signed by the President impacted small group plans. Sec. 213 of the bill passed eliminates the \$2,000/\$4,000 deductible on sponsored health plans. This provides relief for your IAA Health Reimbursement Arrangement (HRA) clients and prospective clients. This means that the \$2,000/\$4,000 annual deductible limit placed upon fully insured small group health plans has been eliminated effective to the enactment of PPACA (March 23, 2010).

### ***Hiding behind the ACA Delays Will Not Protect You From Penalties!***

Many of the 37 plus implementation and compliance delays associated with the Affordable Care Act (ACA) apply to others and not us. With that being said, continue you're "Safe Harbor" planning to avoid unnecessary taxes and penalties. IAA has a complement of tools to assist you and your insurance consultants remain prepared. We are here to help!

### ***ACA: Enrollee Subsidies?***

The end of the Individual open enrollment period was March 31, 2014. So where are we with enrollment counts? Seven million is the latest number that can be dissected to support any position of success or failure. (I'm sure you have seen the news from both sides of the isle) Industry reports that only 1/5 of the population is predicted to be eligible for subsidies in the Federal Exchange states of those who enrolled.

In some states, such as IA, NM, OK, SD and ND, only about 1/10 of people eligible for subsidies enrolled. State-run Exchanges seem to be having a higher percentage of subsidy-eligible enrollees. (Many of these premium subsidized individuals are also eligible for a subsidy for the large co-pay and deductibles in most Exchange plans) The actuary concern is with so many uninsured having significant subsidies available, why the relatively low enrollment? (Remember the 40 million uninsured)

# IAA Legislative Ledger



Q-2 2014  
April 9, 2014

## ***A Relevant Indicator?***

It was assumed that subsidies would be the attraction and glue to keep enrollees in government Exchanges and people wouldn't complain about high premium price, restricted list of providers, and the high co-pays and deductibles, because their actual out-of-pocket cost would be heavily subsidized.

## ***A Silver Lining***

The majority of enrollees are not eligible for subsidies and are paying the full price of coverage out of their own pockets (with after tax dollars). **Benefit to the system; it means they will be much more cost conscious consumers.** We may see some percentage of current "enrollees" reject the Exchange coverage when they see the policy conditions and price they actually get. (A large number of people who are counted as "signed-up" haven't actually seen their policy yet.) So, when the people start using the plan and seeing the actual premiums and out of pocket cost, Adam Smith's<sup>1</sup> invisible hand will take control and enrollees will demand more information about premiums, networks, provider charges and coverage. The ACA enrollment risk comes next fall, when it is time to renew. Many first-year enrollees may say thanks-but-no-thanks, especially if the individual mandate "tax" is officially stopped or there is little perceived financial risk for being uninsured.

## ***Will Subsidies Be Allowed In The Federal Exchanges?***

An Appeals court in DC heard the Halbig case (one of 5 across the country) challenging the authority of the Federal Exchange to pay

<sup>1</sup> The **invisible hand** refers to the self-regulating nature of the marketplace in determining how resources are allocated based on individuals acting in their own self-interest.

subsidies. The key issue is that the text of ACA pretty clearly (around 7 times) says that subsidies may only be paid in STATE-sponsored Exchanges. The IRS chose to read that as allowing the Federal Exchange too. If the Federal Exchange cannot pay subsidies, it will be a presumed fatal kick in the gut for the whole Exchange attraction as only 36 states have the Federal Exchange (Consider the prior story on the percentage of enrollees eligible for subsidies).

A decision is expected by the end of June. If the Halbig (Meaning only State Exchanges can offer subsidies) wins, it would probably need to go to SCOTUS, and that could take another year. So, even a "win" in June will not make the subsidies disappear from Federal Exchanges.

## ***IAA Mobile App***

Fun stuff for you and your members; the IAA Member App will be available on Wednesday April 16<sup>th</sup>. We are excited to bring this latest technology to our IAA Members. The application will be available for over 250 devices.



Look for our formal announcement and press coverage in the next few days.

Enjoy the rest of your day and stay healthy!

*Thank you,  
Paul Kelly, President*