



IT TAKES VISION

What's up DC?

The Impact of Federal Laws and Regulation on Accident & Health Products

Milliman – Tampa

Stacy Koron

Stacy.koron@Milliman.com

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Disclaimers

- The information in this presentation is general in nature, is not intended to provide specific valuation advice, and is not intended to represent any specific company. The information must be validated by a company to arrive at its own opinion. Nothing in this presentation should be construed as or relied upon as legal advice.

Agenda

- ACA – Individual Mandate
- Association Health Plans
- Short Term Limited Duration Health Insurance
- HRAs
- 1557 Nondiscrimination Rules

ACA – Individual Mandate

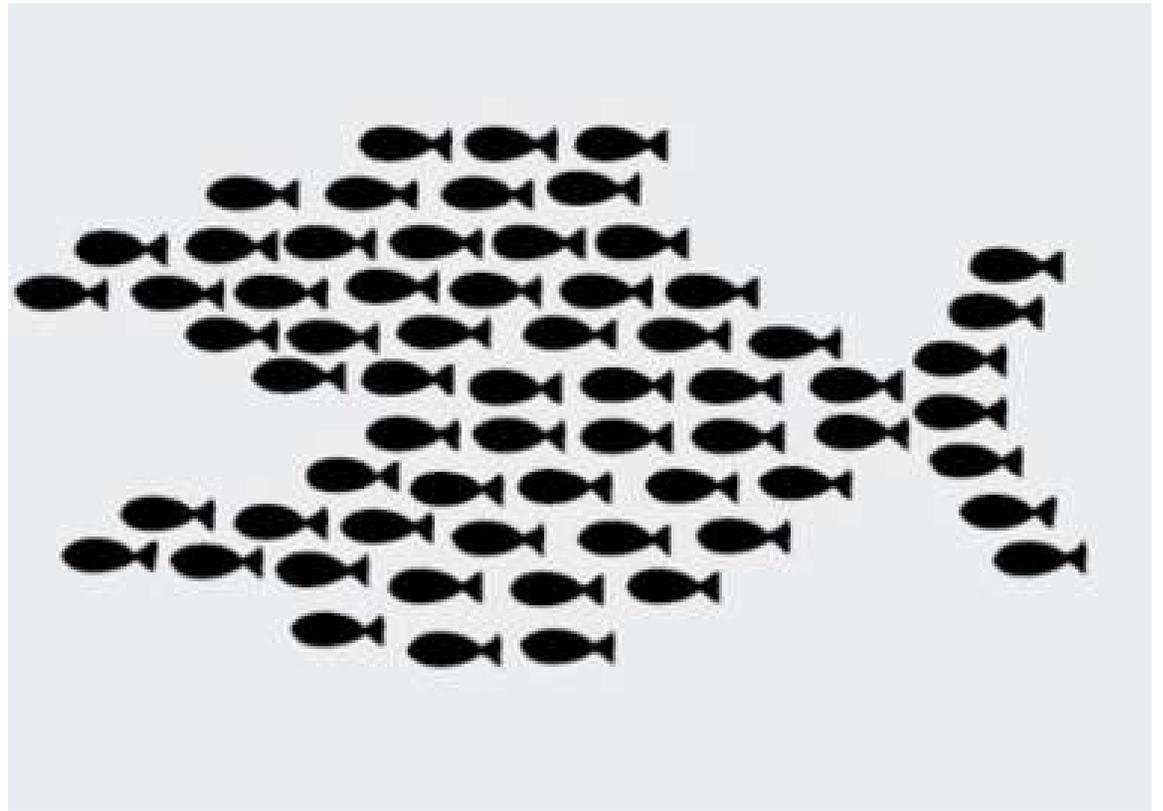
ACA Individual Mandate

- 2017 Tax reform eliminated tax penalty for individuals without health insurance
- Legal Challenge:
 - Texas et al v. United States of America et al.
 - Is mandate severable from ACA GI and community rating provisions
 - Judge states that the tax bill renders ACA unconstitutional (without tax penalty it no longer passes constitutional test).
 - Currently on appeal in 5th Circuit

Association Health Plans

Association Health Plans

- Federal jurisdiction claimed through ERISA
- Allows otherwise small employers to be regulated as large groups under ACA.
- Some rules not applicable:
 - EHB
 - Rating rules
 - Single risk pool
 - Risk adjustment
- 85% MLR
- State Reactions



Association Health Plans



- New Pathway (Pathway 2)
 - Removes requirement that AHPs must exist for a reason other than offering health insurance
 - Allows self-employed persons and their dependents to participate in AHPs
 - Allows association in same geographic area if they share a common interest
 - Allows associations to have members are in the same industry but in different areas
 - Non-discrimination – conditions for membership, benefits, premiums

Association Health Plans

- Legal Challenge: State of New York et al v. United States Department of Labor et al
 - End run around ACA
 - Exceeding scope of DOL authority under ERISA
 - NY won on summary judgment; DOL appealed to DC District Court
- No new Pathway 2 plans
- What does it mean for existing Pathway 2 plans
- Federal and state legislation

Short Term Medical

Short Term Medical (STM)

ACA applies to “individual health insurance coverage” and “health insurance sold in the individual market”

45 C.F.R. 144.103:

“Individual health insurance coverage means health insurance coverage offered to individuals in the individual market, but does not include short-term, limited duration insurance.”

Defined as “health insurance coverage provided pursuant to a contract with an issuer that has an expiration date specified in the contract (taking into account any extensions that may be elected by the policyholder without the issuer’s consent) that is less than 12 months after the original effective date of the contract.”

No similar group exemption

Short Term Medical (STM)

Initial Obama Administration Rule

- limited to “less than 12 months”
- no renewal

Obama Administration Revised Rule

- June 2016
- reduced duration to no more than 3 months
- required notice on limitations of these plans

Trump Administration Rule

- August 2018 rule
- reverts back to “less than 12 months”
- allows renewals up to 36 months
- retains notices

Short Term Medical (STM) - Features

- Legal Challenge: Association for Community Affiliated Plans et al v. United States Department of the Treasury et al
 - DC District Court
 - Oral arguments heard on October 26th
 - Court suggested we should see plans “play out” in the market
 - Will certainly be appealed
- Congressional request regarding Rulemaking



Short Term Medical – State Law May Vary

- NAIC Model 170/171 update
- Data Call
- Recent state activity
 - Expanding: IA, VA (6/36)
 - Restricting: DE, OR, WA
 - Prohibiting: CA
 - Clarifying: AK, NJ



HRA Regulation

HRA Regulation

- Final Reg. and FAQ issued 6/13/19
- Employer funded, tax favored accounts
- Two types of HRA
 - Individual Coverage
 - Excepted Benefit



Health Reimbursement Accounts

Individual Coverage

- Employer provides funds
- May satisfy employer mandate if sufficiently funded.
- Must use funds to purchase coverage in the individual market and may use for other medical expenses
- Must offer to all individuals in a class (classes are defined in regulation)
- Higher amounts allowed for older workers and families
- May rollover
- Employees can opt out of an Individual Coverage HRA at least annually and claim the premium tax credit if they are otherwise eligible and if the HRA is considered unaffordable.

Excepted Benefit HRA

- Employer provides funds
- Employer must also offer group health plan
- Funds can be used for medical expenses or premiums for excepted benefits (including STLDI)
- Can not use funds for individual health premiums
- Must offer to all individuals in a class (classes are defined in regulation)
- Contributions limited to \$1800/yr.
- Allows rollover (which doesn't count against maximum)

Section 1557 Nondiscrimination Rules

Amendment and Clarification of 1557

- Instead of applying to all operations of all entities that receive federal funds, entities not primarily engaged in providing health care (including insurers) are limited only to activities:
 - related to providing health care
 - that receive federal funds
- Repeals prohibitions “on the basis of sex” including termination of pregnancy and transgender protections
- Repeals requirement for translations document
- Will reflect federal health care conscience protections and religious freedom (contraception and abortion)
- Comments due 8/13/19

Questions?