



**WVAHC**

West Virginians for Affordable Health Care

**Patient Protection and  
Affordable Care Act**

Raleigh County  
Chamber of Commerce

June 17, 2010

# PPACA Has Three Basic Goals

- Expands health insurance. 94% of all Americans covered by 2019 -- excludes unauthorized immigrants
- Strong regulations of the insurance industry
- Controls cost, particularly for Medicare

# Expansion of Health Insurance

- Expand Medicaid to 133% of FPL, covering 122,000 to 157,000 low income West Virginians with the federal government paying 95%
- Establish state or regional health exchanges for individuals and small businesses
- Tax credits for individuals and small businesses in the health exchanges

# Health Exchange

- 4 levels of benefits with actuarial values ranging from 60% to 90%.
- Essential benefits must be offered.
- Office of Personnel Management contracts with at least two multi-state plans in each exchange.

# Eligibility for Businesses in the Health Exchange

- Beginning in 2014 businesses with 100 or fewer employees are eligible
- Until 2016 states can restrict employers in the exchange to those with 50 or fewer employees
- After 2017, states can expand the exchange to businesses with more than 100 employees

# Small Business Tax Credits

- 2010 through 2013, employers with 10 or fewer employees and average wages of \$25,000 or less get tax credits for 35% of the employer's contribution. Phased out for employers with 25 employees and average wages of \$50,000.
- 2014 and beyond, very similar program, but tax credits are raised to 50% of the employer's contribution. **These tax credits are limited to 2 years.**

# Grandfathered Insurance Plans

- Any health insurance policy in existence on **March 23, 2010** is grandfathered, regardless of whether it is a group plan or an individual plan.
- Grandfathered plans must comply with almost all the 2010 insurance reforms, but are exempt from almost all of the 2014 insurance reforms.

# Interim Final Regulation on Grandfathered Plans

- Monday the Departments of Treasury, Labor and HHS issued interim final regulations of grandfathered plans
- To maintain grandfathered status employers cannot
  - Increase co-insurances
  - Significantly cut benefits
  - Significantly increase copayments: Greater than \$5 or the medical rate of inflation plus 15%

# Interim Final Regulation on Grandfathered Plans Continued

- Significantly increase deductibles: medical rate of inflation plus 15%
- Significantly lower employers' premiums: reduce the employers' percentage of payment to premiums by more than 5 percentage points
- Employers can increase copayments, deductibles and reduce premiums and still maintain grandfathered status

# Highlights of Regulations of the Insurance Industry

- Regulations **beginning with new plan year** after September 23, 2010
  - End pre-existing conditions for children
  - Young adults may stay on their parents policy until their 26<sup>th</sup> birthday
  - Prohibition on life time cap on benefits and restrictions on annual caps on benefits
- These reforms apply to grandfathered plans, **including self-insured ERISA plans**

# Other Reforms in 2010

- High risk pool for uninsured with pre-existing conditions
- Reporting of medical loss ratios in 2010 and minimum requirements (85% for large group market) in 2011 with possible rebates
- All new plans must cover proven, effective prevention measures with no cost sharing
- States report trends in premium increases, may recommend exclusion from the exchange for insurance companies with unreasonable increases

# Insurance Reforms in 2014

- End pre-existing conditions for adults
- Guarantee issuance and renewal
- Bans medical and gender underwriting
- Premiums can vary on age, tobacco use, meeting wellness goals in an employer sponsored wellness program, geography and family size
- Fundamental changes for entrepreneurs and the insurance industry

# Employer Sponsored Early Retiree Reinsurance Program

- By June 23, 2010 Secretary of HHS establishes a temporary (until 2014) reinsurance program for employers that cover pre-Medicare retirees (age 55-64) and their families. Pays 80% of claims between \$15,000 and \$90,000. This reimbursement must be used to lower costs borne by plans and beneficiaries. \$5 billion over 4 years.

# Employer Sponsored Wellness Programs

- Employers with less than 100 employees that were not providing wellness programs on March 23, 2010, are eligible for grant to establish comprehensive workplace wellness programs. \$200 million available from 2011-2015.
- Center for Disease Control and Prevention evaluates best employer-sponsored wellness practices and provide educational and technical assistance to promote best practices.

# Employer Responsibility

- Free rider provision with small business exemption
- Free rider provision: If an employer with more than 50 employees does not provide health insurance; **and** at least one employee goes to the health exchange and receives tax subsidies; then the employer pays a penalty. The penalty is \$2,000 times the number of FTE minus the first 30 employees.

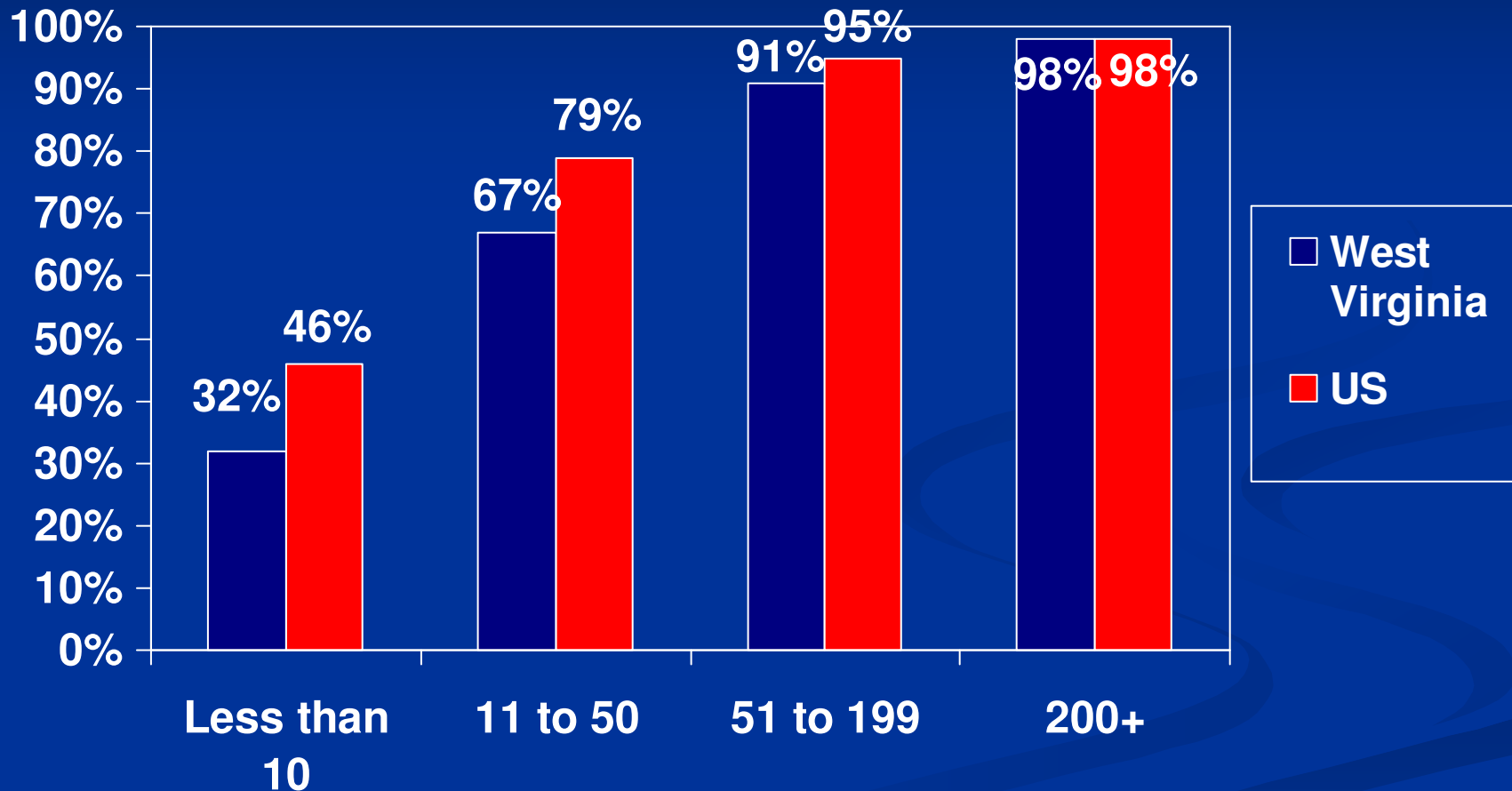
# Employer Responsibility Continued

- Unaffordable premiums: If an employer with more than 50 employees, offers health insurance, but it cost an employee more than 9.5% of his or her salary, then the employee can go to the health exchange and get tax credits for his or her insurance. The employer is charged \$3,000 for each employee who receives a tax credit in the exchange.

# Employer Responsibility Continued

- Free choice voucher: A qualified employee (earns less than 400% of FPL and their premium would be between 8% and 9.8% of income) can receive a voucher to use in the exchange. The voucher is capped at what the employer contributes to its own plan, and the employee cannot receive tax credits in the exchange. Employers 50 or fewer employees are exempt.

# Employers Offering Health Insurance by Number of Employees



Sources: Employee Benefits in West Virginia, Workforce (April 2006), and Employers Health Benefits 2009 Survey, KFF/Health Research and Education Fund

# Employer Responsibility Continued

- Collect additional Medicare payroll tax for those earning more than \$200,000 a year **and** joint filers earning more than \$250,000 a year. Begins in 2013.
- Beginning in 2012, requires employers to file 1099-MISC forms with the IRS for any vendor who is paid more than \$600 a year. Previously requirement was limited to only freelancers and others who were not incorporated.

# Employer Responsibility Continued

- Employers with 200+ employees must automatically enroll new employees in employer sponsored insurance with an employee opt-out.
- Large employers must report to HHS whether they offer health insurance, length of waiting period, cost of the lowest priced plan, and the employer's share of the premium.
- Beginning in 2014, group coverage plans, other than grandfathered plans, cannot have a waiting period that exceeds 90 days.

# Employer Responsibility Continued

- Beginning in 2011, employers must report the value of an employer sponsored health insurance on the employees W-2. This is informational only. The value of the employer sponsored health insurance is not taxable income.
- Employers with more than 50 employees must provide time off -- may be unpaid time off -- for new mothers to express breast milk for 1 year after her child's birth.

# Employer Responsibility Continued

- If an employer decides to participate in the CLASS program, they would collect payroll taxes for this program. The Community Living Assistance Services and Support (CLASS) program is a voluntary, public, insurance plan that provides community benefits for long-term care. Funded through payroll deduction (automatic enrollment with an opt-out provision).

# What Next

- Educate self
- Educate employees
- Look at existing health plan
- Talk to agent, accountant, attorney, etc.
- Look at wellness initiatives
- Sign up for eUpdates at [www.wvahc.org](http://www.wvahc.org)

# Resources

- Alston & Bird's "Health Care Public Policy Group Health Care Reform Chart" at [www.alston.com](http://www.alston.com)
- IRS Small Business Tax Credit information at <http://www.irs.gov/newsroom/article/0,,id=223666,00.html>
- US Chamber of Commerce booklet at [http://www.uschamber.com/assets/labor/100426\\_critical\\_employer\\_issues\\_ppaca.pdf](http://www.uschamber.com/assets/labor/100426_critical_employer_issues_ppaca.pdf)

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