



The ACA Conundrum

Changes, Updates and Overlooked
Rules that Employers Should Know

Thursday, July 12, 2018, 2:00 pm ET

Legal Disclaimer

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Today's Speaker



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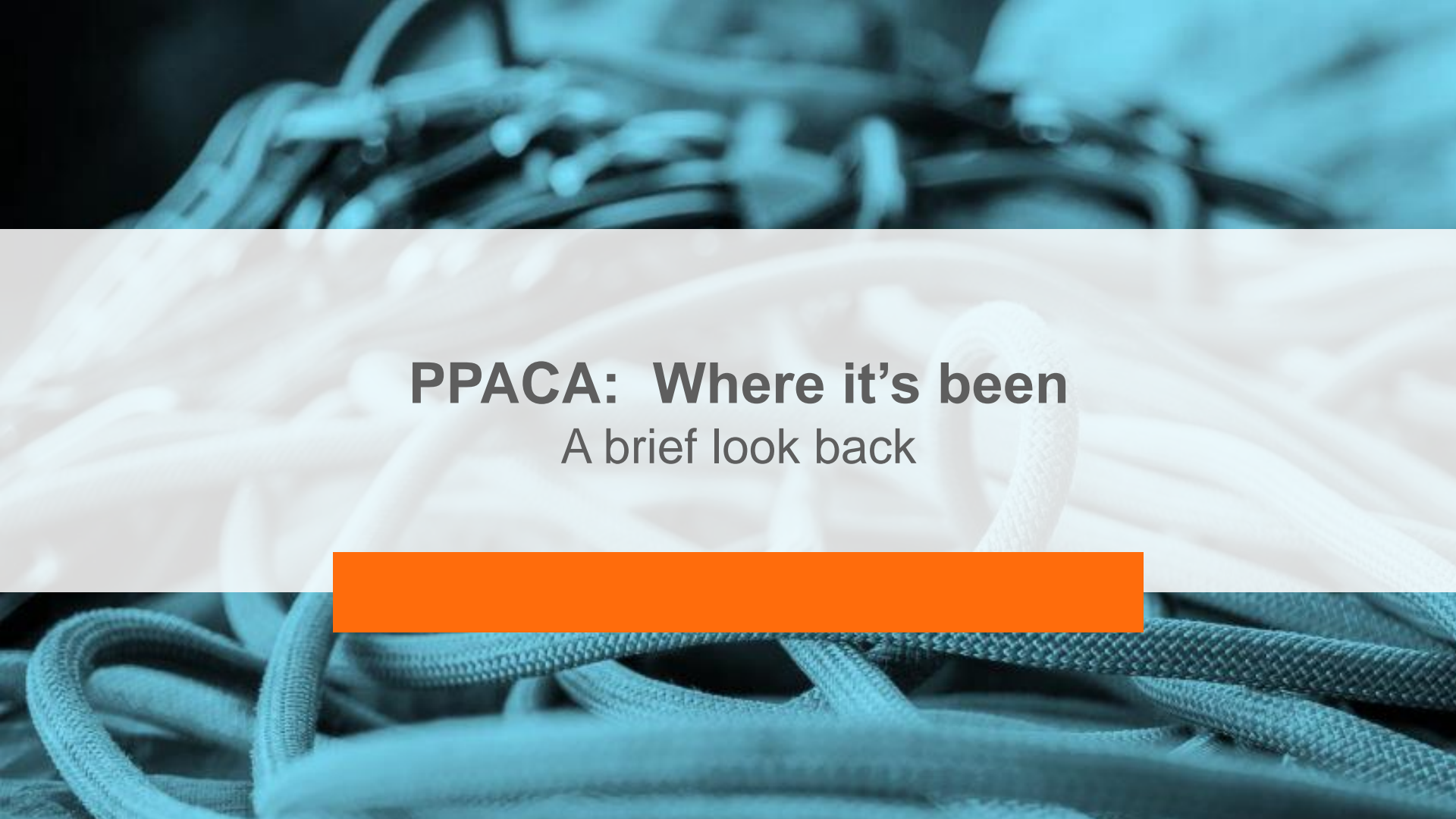
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Alera combines the national resources of its members to deliver the best possible outcomes for clients—positively impacting its employees, clients, communities and the lives of people they serve.


The background features a repeating pattern of various icons in shades of gray, including a calculator, a piggy bank with a dollar sign, a medical cross, a gear, a magnifying glass, and a paw print. A large, semi-transparent gray circle is centered on the page, containing the main text. An orange rectangular border is overlaid on the image, framing the central circle.

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PPACA: Where it's been
A brief look back



History of PPACA

Enacted in 2010

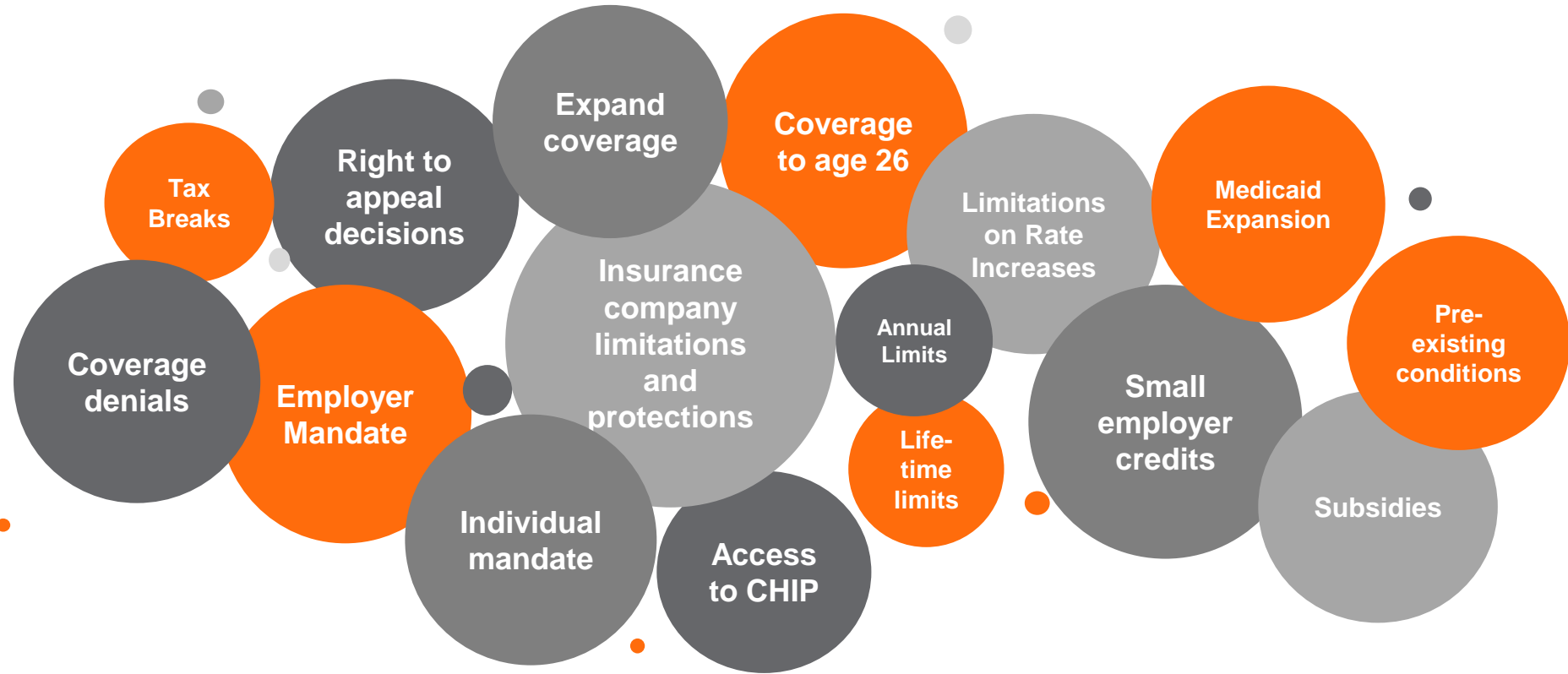
Goal

Provide more access to affordable, health insurance and reduce the growth health care spending

How

Expand affordability, quality and availability of public health insurance through consumer protections, regulations, subsidies, taxes and insurance exchanges

New Benefits, Rights, and Protections



Where the ACA Meets the IRS

Insurance Providers

Section: 6055

Health Insurance Providers as well as sponsors of self-insured health plans must file information with the Internal Revenue Service (IRS) about the health plan coverage they offer.

Applicable Large Employers

Section: 6056

Applicable Large Employers (ALEs) need to file information returns with the IRS and provide statements to their measured FTEs about the health insurance coverage offered.

What Are The Reporting Requirements?

Due dates below are for the 2018 reporting year

Health Insurance
Providers
Non ALE Self-Insured
Employers

**Section
6055**

Form 1095-B

Self-Insured
ALE Employers

**Section
6055**

Form 1095-C Employee level

Self-Insured and
Fully Insured ALE
Employers

**Section
6056**

Due to Employees
January 31, 2018

Form 1094-B

Form 1094-C Organizational level

Electronically due to IRS
April 2, 2018

Attempts to Alter/Repeal the ACA

Changes have been piecemeal, but the major provisions remain intact

American Health Care Act of 2017

Better Care Reconciliation Act

Graham-Cassidy Plan



Overlooked Aspects of the ACA: Medicare Secondary Payer Regulations



Medicare Secondary Payer

What's Overlooked?

Employers with 20 or more employees:

Must ensure they are not incentivizing Medicare eligible employees to take Medicare over their group health plan, or treating Medicare eligible spouses differently than spouses that are not Medicare eligible.

Medicare Secondary Payer

Easy Pitfalls

Opt-outs to older employees only

Spousal carve outs - including Medicare coverage that would make a spouse ineligible

Reimbursing employees for dollars spent on Medicare Part B, Part D, or Medigap

What Else Should Employers be Aware of Regarding Medicare?



Reimbursement for Medicare Part B, Part D, or Medigap

For Employers with less than 20 employees

- Must offer a group health plan to all employees that offers minimum value
- An employee who receives premium payment must be enrolled in Medicare Parts A and B
- Premium payments are only available to employees who are enrolled in Medicare Part A, and either Part B or D
- Premium reimbursement may be only for Medicare Part B or D premiums and excepted benefits, including Medigap

Key Take Away

Take Data Match Letters from
the Centers for Medicare & Medicaid Services
Seriously!

What are the Penalties for Medicare Non-compliance?



Penalties for Medicare Non-compliance

Medicare Civil Money Penalties

- Entities making a prohibited offer or incentive to an employee - up to \$5,000 per offer
- Failure to fulfill reporting requirements under Section 111 - \$1,000 a day for each day of non-compliance for each individual to whom the information should have been submitted

Penalties for Medicare Non-compliance

IRS penalties:

“Nonconforming” group health plan - excise tax of 25% of the group health plan expenses for the year

Nonconforming plans:

- Improperly take into account that an individual is entitled to Medicare
- Fail to provide the same benefits under the same conditions to employees and spouses age 65 or over as it provides younger employees and spouses
- Improperly differentiate between individuals with ESRD
- Fail to refund an erroneous conditional Medicare payment.

Reimbursement of Medicare premium that is not integrated with a group health plan - \$100 penalty, per employee, per day



Overlooked Aspects of the ACA: Nondiscrimination Regulations



Don't Forget HIPAA & ACA Section 1557!

ACA Section 1557

Don't discriminate!

Individuals may not be excluded from participation under any health program or activity which receives federal financial assistance from HHS, on the basis of race, color, national origin, sex, age, or disability

ACA Section 1557

Don't discriminate!

Regulations are aimed at preventing discrimination by health care providers, insurers, and employee benefits programs

Employee benefit programs of employers that are covered entities, or are fully insured, or are self-funded but administered by a TPA, are impacted by the prohibitions

Section 1557 is the first federal civil rights law to prohibit discrimination on the basis of sex in health care

ACA Section 1557

Covered Entities

A covered entity cannot:

- Deny, cancel, limit, or refuse to issue or renew a health-related insurance policy or other health-related coverage
- Deny or limit coverage of a claim, or impose additional cost sharing or other limitations or restrictions
- Employ marketing practices or benefit designs that discriminate on the basis of race, color, national origin, sex, age, or disability.

Hungry Hungry HIPAA

Bans discrimination regarding eligibility and health status-related factors

Under HIPAA, health factors are:

Health status

Medical condition (physical and mental)

Claims experience

Receipt of health care

Medical history

Genetic Information

Evidence of Insurability

Disability



Hey, ACA: What's New?



Association Health Plans

*Associations wishing to offer Association Health Plans
can begin offering fully insured coverage on
September 1, 2018.*

Not so fast:

Wait & see how states regulate

Wait & see if insurance carriers will write plans



The Future of Form 5500?

July of 2016, a proposed rule requiring all employers subject to ERISA to file annual 5500 reports was issued.

If finalized, small employers will need to be ready to comply.



Expanded Mandatory Electronic Filing

Potential new rules for smaller employers

Currently:

Employers with fewer than 250 information returns are permitted to file manually, and each type of return is considered separately.

An employer with 145 W-2s, and 125 1095-C Forms can file manually because no single return had more than 250 forms.

Proposed rule:

Would require this sample employer to file electronically, as the two returns combined exceed the 250 threshold.

HSA Updates

H.R. 5138- Bipartisan HSA Improvement
Act of 2018

*If passed, would ease many HSA wrinkles and
rules that currently exist to maintain eligibility*

Future of ACA

Need of reporting is not likely to go away....

Health Care Freedom Act (Senate version) effectively maintained the employer mandate until 2025

Other proposals have maintained the IRS reporting obligations under IRS Code 6055 and 6056

ACA alternatives are likely to still require some sort of reporting

The background of the slide features a close-up, artistic shot of several thick ropes. The ropes are in various shades of blue and teal, with some appearing more vibrant and others more muted. They are tangled and looped, creating a complex, textured pattern. The lighting is soft, highlighting the texture of the rope fibers. A semi-transparent white horizontal band runs across the middle of the image, serving as a backdrop for the text.

Q & A

What would you like to know?

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