Bernie Lowe & Associates, Inc.
"Beyond the Product"

Health Care Reform Update

IMPORTANT NOTICE REGARDING HEALTHCARE REFORM
Update #27 **November, 2013**

Obama Administration Back Pedals on the Renewal of Policies Not Complying With Health Care Reform

When advocating for health care reform, President Obama often commented that people who had a health plan they liked would be able to keep it. However, many insurers are canceling health insurance policies in anticipation of the 2014 insurance market changes mandated by health care reform, and the cancellations have led to assertions that the President's comments were misleading. Due to the political pressure, President Obama recently announced that these noncompliant policies would be allowed to continue to be sold in 2014. As a result of this statement, bills are pending in both houses of Congress that would allow these noncompliant policies to continue.

Also, a transition policy was announced by CMS that reflects a yielding to political reality, even as it leaves a number of unanswered questions. For example, the transition policy is contained in a letter to state insurance commissioners who have the authority to enforce (or not enforce) the specified market reforms. Presumably, the commissioners also will have to adopt some sort of exemption from these rules in their respective states to allow these policies to continue.

The transition policy could not have been anticipated by insurers when they set rates for 2014, and the existence of these noncompliant policies may put financial strains on policies sold through the Exchange, which still must comply with the specified market reforms. While this transitional guidance should not impact most plan sponsors; it certainly throws uncertainty into much of the policy that this law has brought into existence over the last three years. It is unknown how most states will react, what legislation will result and what other changes might take place as a result of more new developments.

As it stands today, many of this law's provisions have been changed, delayed or removed, placing a high degree of uncertainty of the future direction the law might take. As more and more changes take place, much of the nation, including employers, health care providers, consultants and the insurance industry in general, are left scratching their heads in anticipation of what's coming next.

Due to the current political landscape, there is so much uncertainty of the future of this law, making it difficult, to anticipate the future. At BLA we will be staying on top of all developments to ensure our clients receive the newest up to date information as it becomes available.

Transition Policy

Due to the President Obama's declaration that "you can keep your insurance policy for one more year", CMS has announced a transition policy allowing insurers in the individual and small group markets to renew health insurance policies that would otherwise have been canceled due to noncompliance with certain insurance market reforms under health care reform scheduled to take effect for policy years starting on or after January 1, 2014. According to the transition policy, grandfathered health plans are not covered by the policy.

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Under the transition policy, individual and small group policies that are renewed for a policy year starting between January 1 and October 1, 2014 will **NOT** be considered to be out of compliance with six "specified" reforms:

- Premium rating rules
- Guaranteed availability and renewability
- Requirement to provide essential health benefits
- Prohibitions on pre-existing condition exclusions for adults (individual Policies only)
- Discrimination based on a health factor (individual Policies only)

To qualify for the transitional relief, the coverage must have been in effect as of October 1, 2013 and the health insurer must send an informational notice to all individuals and employers who have received (or would receive) a cancellation notice. The informational notice must be sent as soon as reasonably possible if the insurer has already sent a cancellation notice. If the insurer has not yet sent a cancellation notice, the informational notice must be sent by the time the cancellation notice otherwise would be sent. The informational notice must explain any changes in the available insurance options, which of the specified market reforms are not included in the continuing coverage, the insured's potential right to enroll in a qualified health plan through an Exchange (possibly with subsidies), how to enroll through the Exchange, and the right to enroll outside an Exchange in coverage that complies with the specified market reforms.