

Healthcare Reform: The Employer Mandate, Annual Reporting Requirements, and What Else is to Come

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Conference**
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Introductions



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Moderator



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Speaker

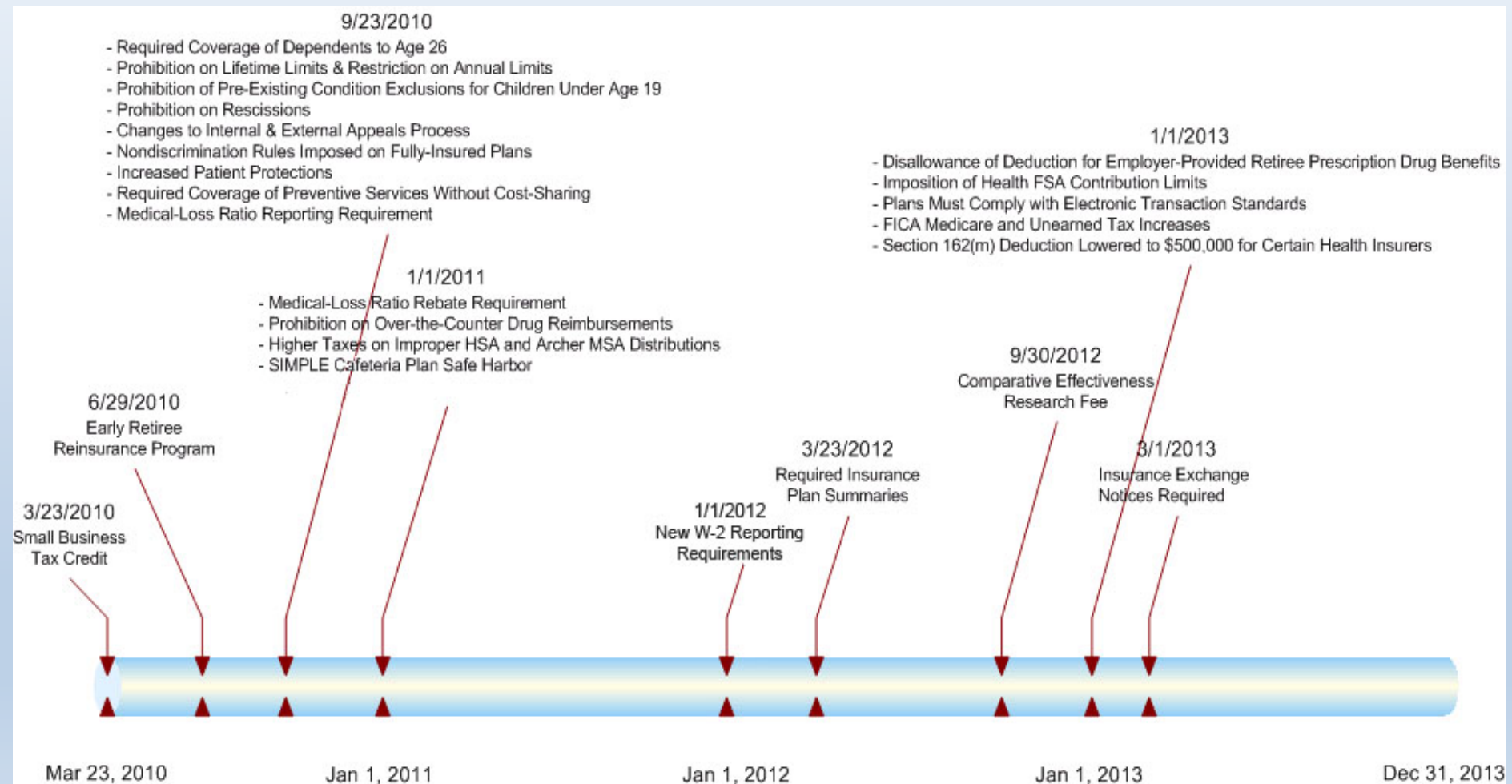
Overview

- Looking Back: The ACA Turns 6
- The ACA's Impact on Employer-Sponsored Health Coverage
- Ongoing ACA Issues for Employers
- Looking Forward: The “Cadillac Tax” and the ACA's Future

Looking Back: The ACA Turns 6

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Timeline of ACA Reforms as Enacted (March 23, 2010 – December 31, 2013)



Looking Back: The ACA Turns 6

Timeline of ACA Reforms as Enacted (January 1, 2014 – January 1, 2018)

1/1/2014

- Health Insurance Exchanges Instituted
- Individual Mandates Go Into Effect
- Employer Mandates Go Into Effect
- Prohibition of All Pre-Existing Condition Exclusions
- Waiting Periods Limited to 90 Days or Less
- Premium Discounts for Wellness Program Participation Increased
- Prohibition on Annual Limits
- Annual Health Insurance Coverage Returns Required

1/1/2015

1/1/2016

1/1/2017

1/1/2018
Excise Tax of 40% Imposed
on "Cadillac" Plans

The Twilight Zone
Required Automatic
Enrollment of Full-Time
Employees

Jan 1, 2014

Jan 1, 2015

Jan 1, 2016

Jan 1, 2017

Jan 1, 2018

The Twilight Zone

Looking Back: The ACA Turns 6

The ACA's First 6 Years

- **March 23, 2010 – The Patient Protection and Affordable Care Act (PPACA) Is Enacted**
 - March 30, 2010: The Health Care and Education Reconciliation Act (HCERA) is enacted, amending the ACA (PPACA and HCERA are together known as ACA)
- **2011 – 1st Wave of ACA Requirements Apply** *(as of January 1, 2014, for Calendar-Year Plans)*
 - Required Coverage of Dependents to Age 26
 - Prohibition on Lifetime Limits on “Essential Health Benefits”
 - Restrictions on Annual Limits on “Essential Health Benefits”
 - Prohibition on Pre-Existing Condition Exclusions for Children Under Age 19
 - Prohibition on Rescissions
 - Changes to Internal Appeals Process; New External Appeals Process
 - Increased Patient Protections
 - Coverage for Preventive Health Services Without Cost-Sharing
 - OTC Drug Reimbursement Restrictions
 - Higher Taxes on Improper HSA and Archer MSA Distributions

Looking Back: The ACA Turns 6

The ACA's First 6 Years

- **2012 – Additional ACA Requirements Apply**
 - Form W-2 Health Coverage Cost Reporting Requirement takes effect January 1, 2012 (*optional for 2011 tax year; required for 2012 and future tax years*)
 - Summary of Benefits and Coverage (SBC) Requirement takes effect September 23, 2012 (*01/01/2013 for Calendar-Year Plans*)
 - Patient-Centered Outcomes Research Institute (PCORI) Fees take effect September 30, 2012 (*2012 Plan Year, for Calendar-Year Plans*)
- **2013 – Additional ACA Requirements Apply**
 - \$2,500 Limit on Health FSA Salary Reductions takes effect January 1, 2013
 - Exchange Notice Requirement takes effect as of October 1, 2013 (*delayed from March 1, 2013*)

Looking Back: The ACA Turns 6

The ACA's First 6 Years

- **2014 – 2nd Wave of ACA Requirements Apply** (*as of January 1, 2014, for Calendar-Year Plans*)
 - Prohibition on Annual Limits on “Essential Health Benefits”
 - Prohibition on Pre-Existing Condition Exclusions for All Enrollees
 - Prohibition on Excessive Waiting Periods
 - Health Reimbursement Arrangement (HRA) “Integration” Rules
 - Cost-Sharing Limits Imposed
 - Guaranteed-Availability and Guaranteed-Renewability Rules
 - Nondiscrimination Rules
 - “Essential Health Benefits Package” Requirement (*Individual and Small Group Markets Only*)
 - Establishment of State and Federal Health Insurance Exchanges
 - Individual “Shared Responsibility” Penalties

Looking Back: The ACA Turns 6

The ACA's First 6 Years

- **2015 – 3rd Wave of ACA Requirements Apply** (*as of January 1, 2015, for Calendar-Year Plans*)
 - Employer “Pay or Play” Mandate Takes Effect (*applicable large employers only; delayed from January 1, 2014*)
 - Section 6055 and 6056 Information Reporting Requirements Take Effect (*delayed from January 1, 2014*)
- **2020 – “Cadillac” Tax on High-Cost Health Coverage Takes Effect** (*delayed from January 1, 2018*)

The ACA's Impact on Employer-Sponsored Health Coverage

The ACA's Impact on Employer-Sponsored Health Coverage

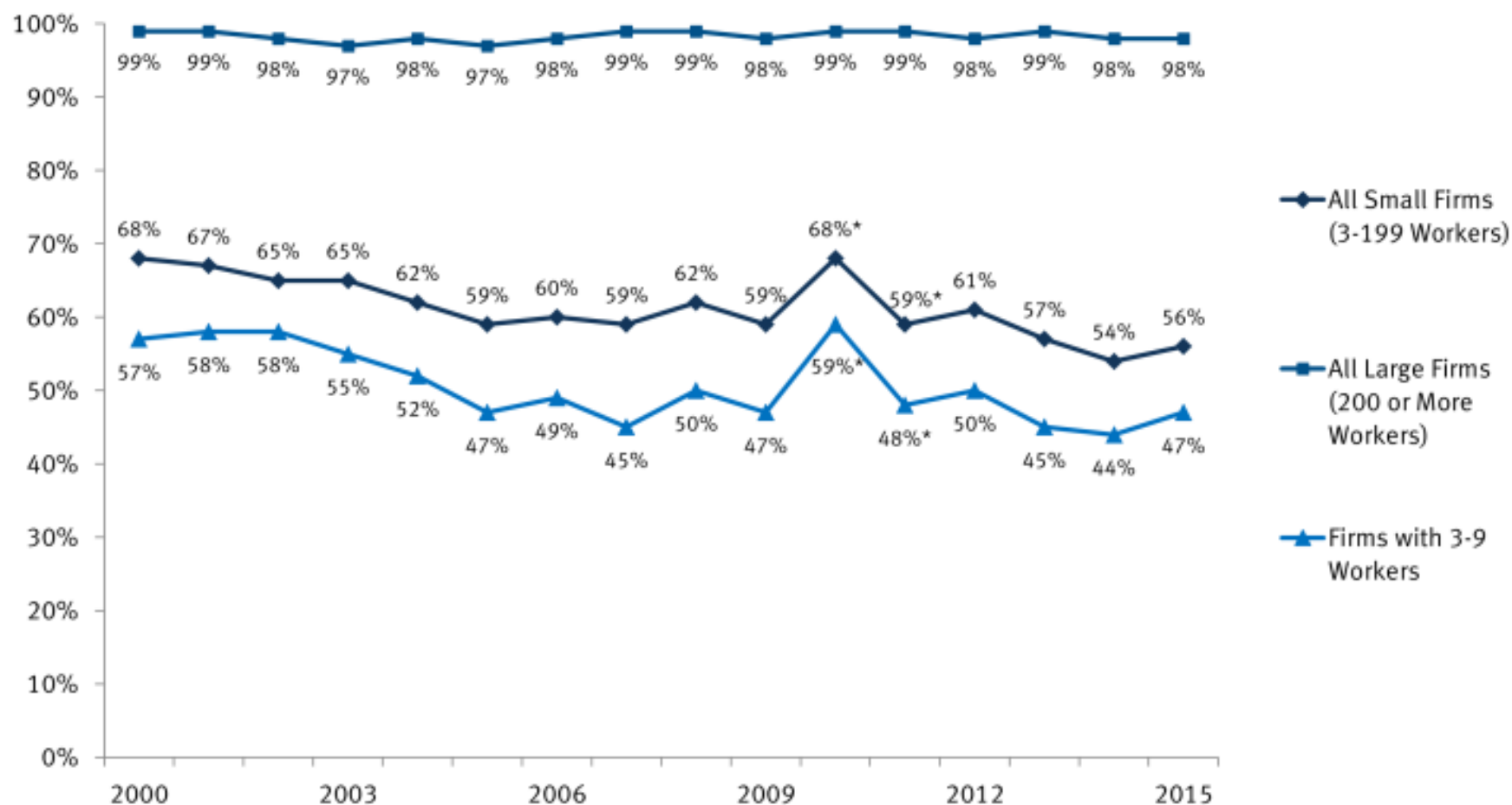
- **Takeaway #1: In general, health services spending continues to increase**
 - From 2014 – 2015, inflation-adjusted health services spending grew by 4.7%
 - Non-health GDP grew only 2.1% during that time
- Source: National Center for Policy Analysis Health Policy Blog, 03/28/2016*

The ACA's Impact on Employer-Sponsored Health Coverage

- **Takeaway #2: The percentage of employers offering health coverage to employees has not significantly changed**

Figure 1

Percentage of Firms Offering Health Benefits, by Firm Size, 2000-2015



*Estimate is statistically different from estimate for the previous year shown ($p < .05$).

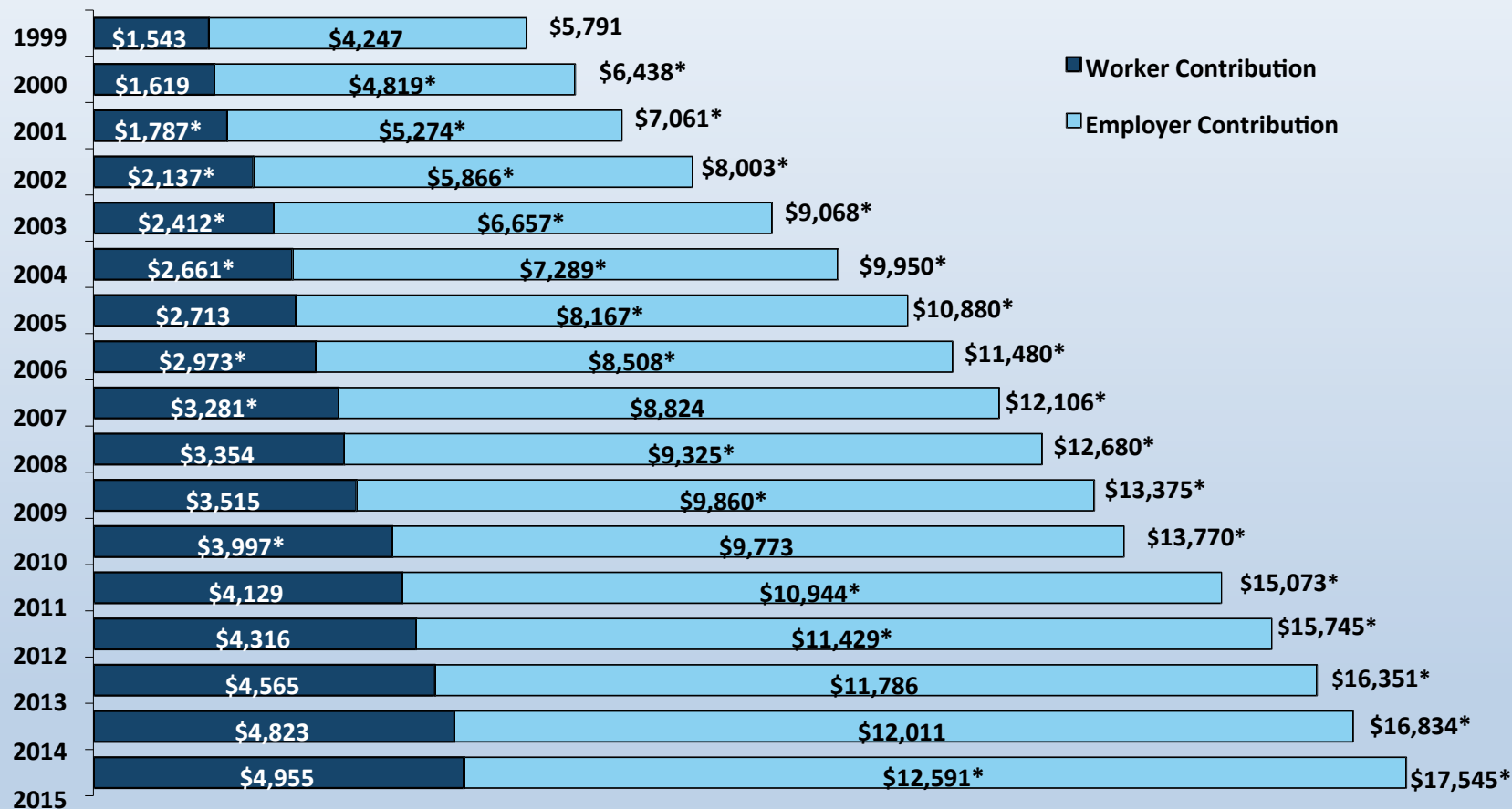
Note: Estimates presented in this exhibit are based on the sample of both firms that completed the entire survey and those that answered just one question about whether they offer health benefits.

Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2000-2015.

The ACA's Impact on Employer-Sponsored Health Coverage

- **Takeaway #3: Health insurance premiums continue to rise**

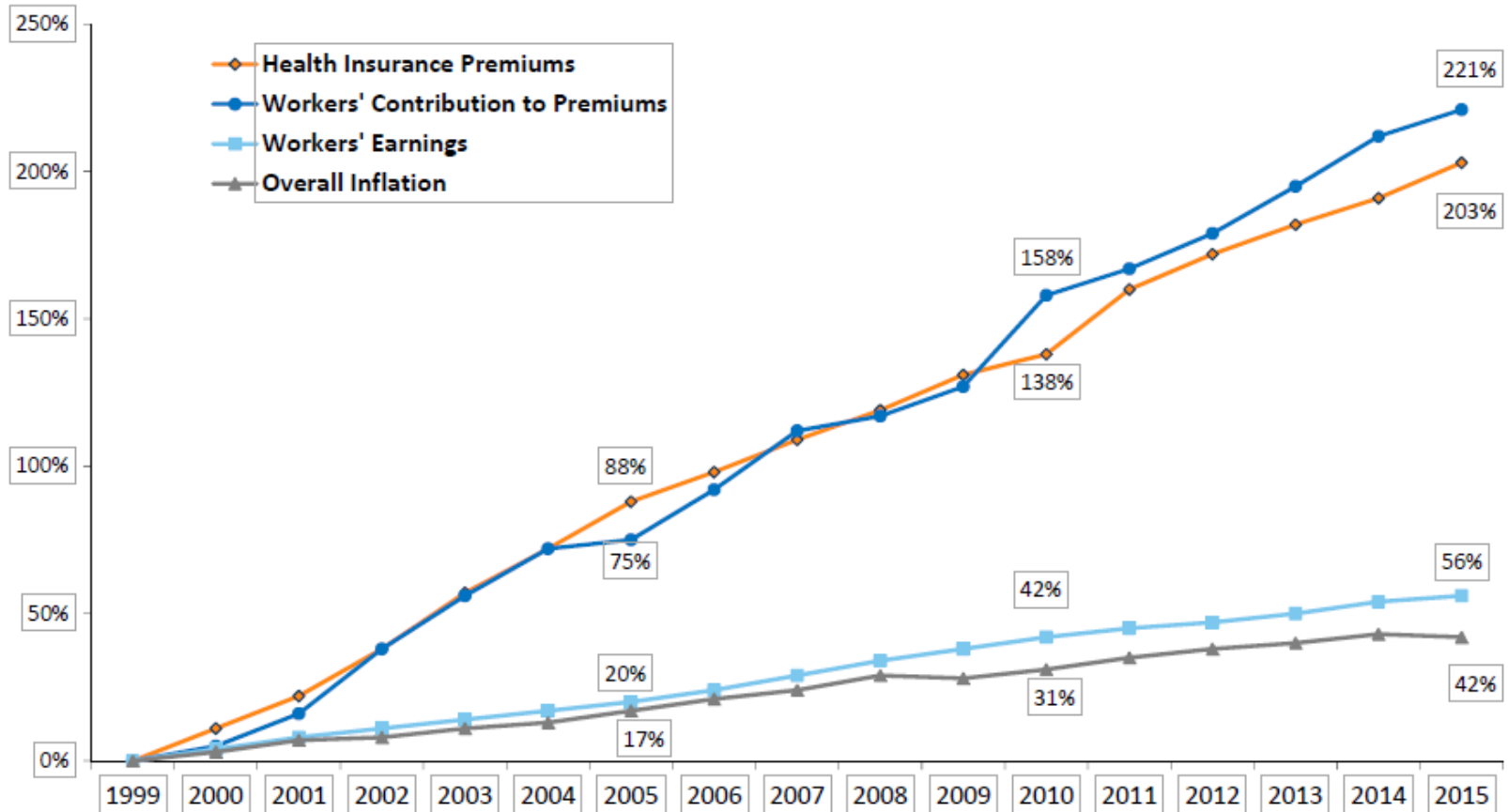
Average Annual Worker and Employer Contributions to Premiums and Total Premiums for Family Coverage, 1999-2015



* Estimate is statistically different from estimate for the previous year shown ($p < .05$).

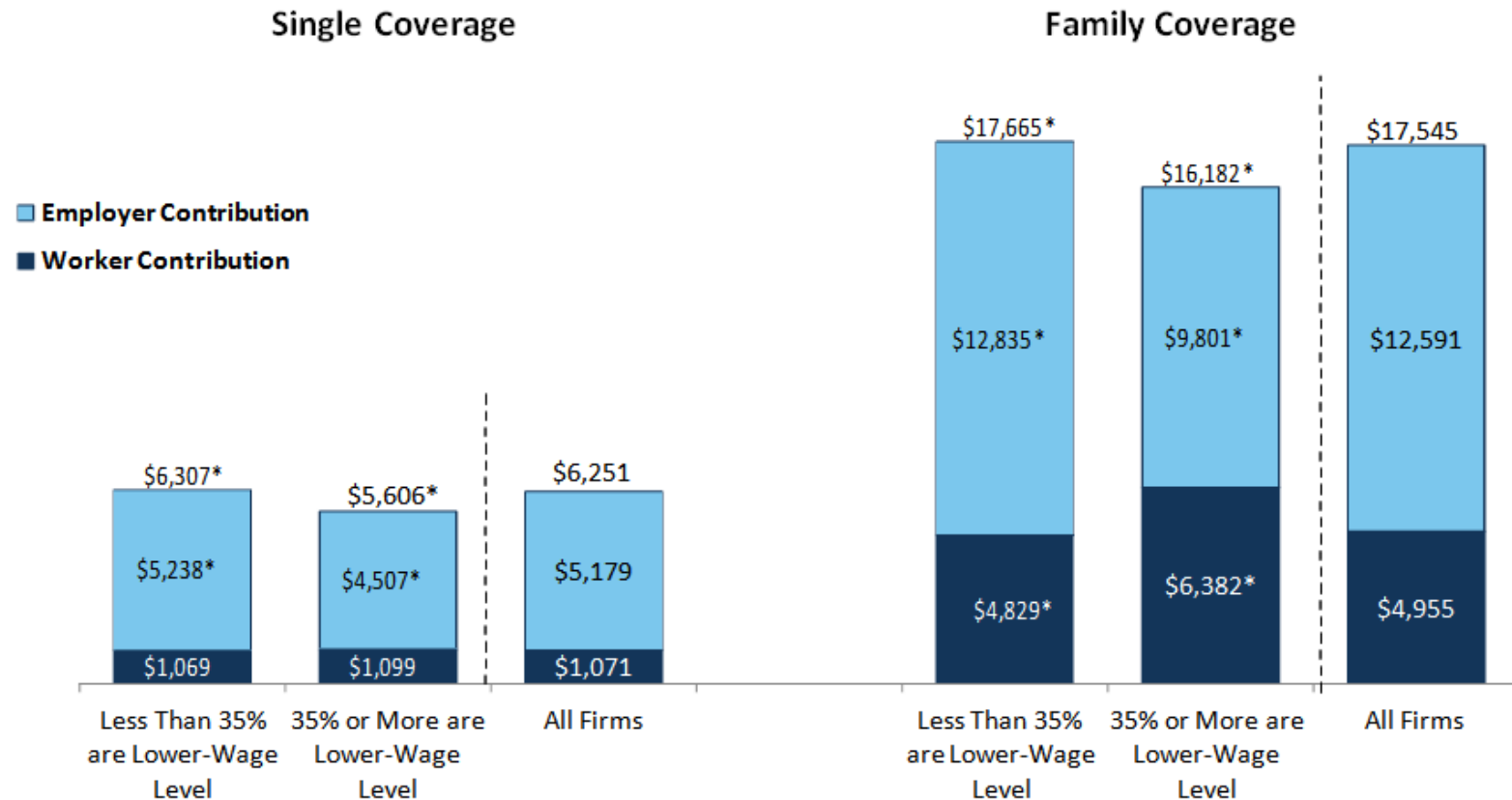
SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 1999-2015.

The ACA's Impact on Employer-Sponsored Plans: Comparative Increases in Premiums, Workers' Contributions to Premiums, Inflation, and Workers' Earnings, 1999-2015



SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 1999-2015. Bureau of Labor Statistics, Consumer Price Index, U.S. City Average of Annual Inflation (April to April), 1999-2015; Bureau of Labor Statistics, Seasonally Adjusted Data from the Current Employment Statistics Survey, 1999-2015 (April to April).

The ACA's Impact on Employer-Sponsored Plans: 2015 Average Annual Worker and Employer Contributions to Premiums



* Estimate is statistically different between All Large Firms and All Small Firms estimate ($p < .05$).

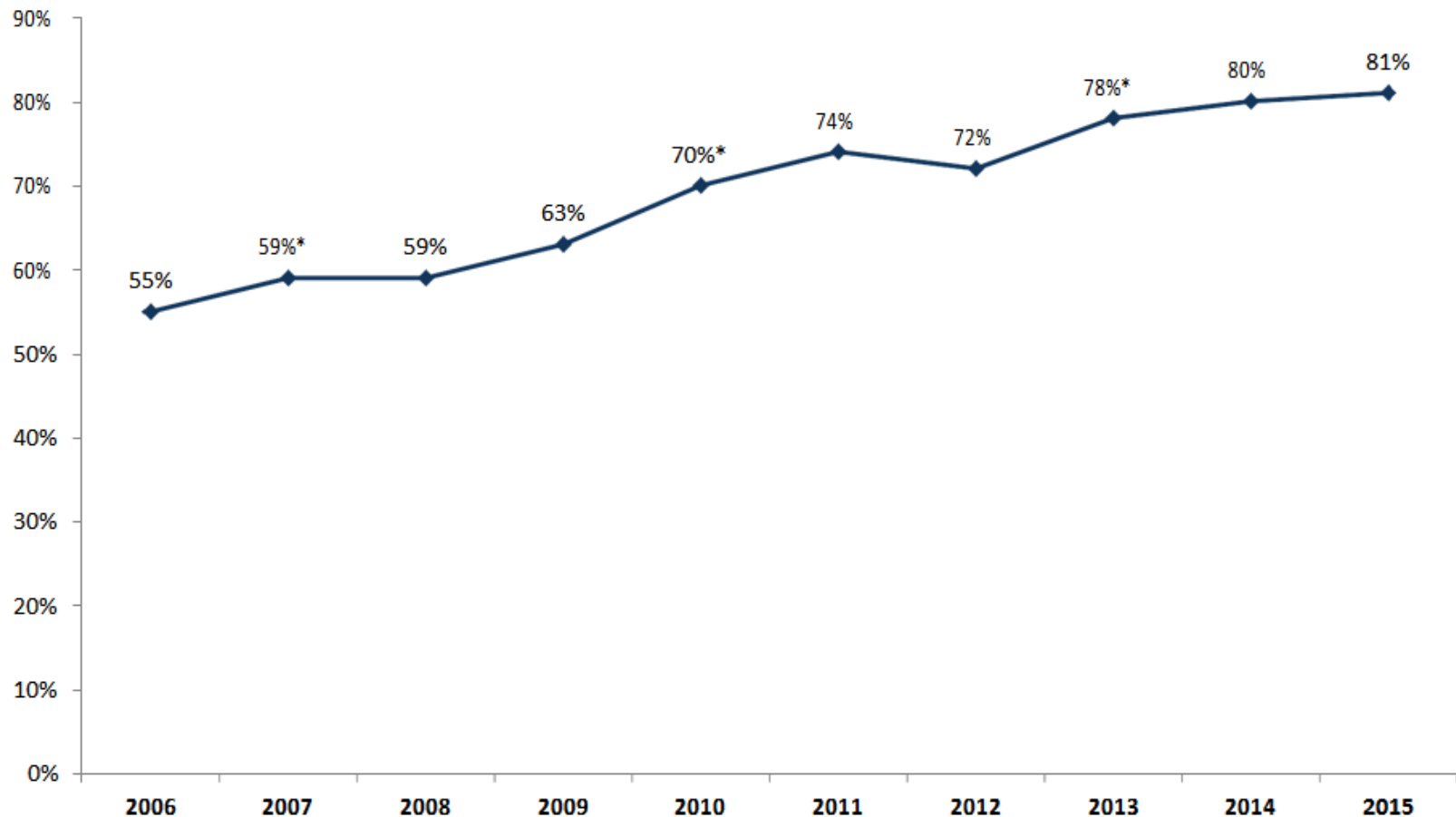
NOTE: Lower-wage level is \$23,000 annually or less, the 25th percentile for workers earnings nationally.

SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2015.

The ACA's Impact on Employer-Sponsored Health Coverage

- **Takeaway #4: Participants' out of pocket expenses have increased dramatically**

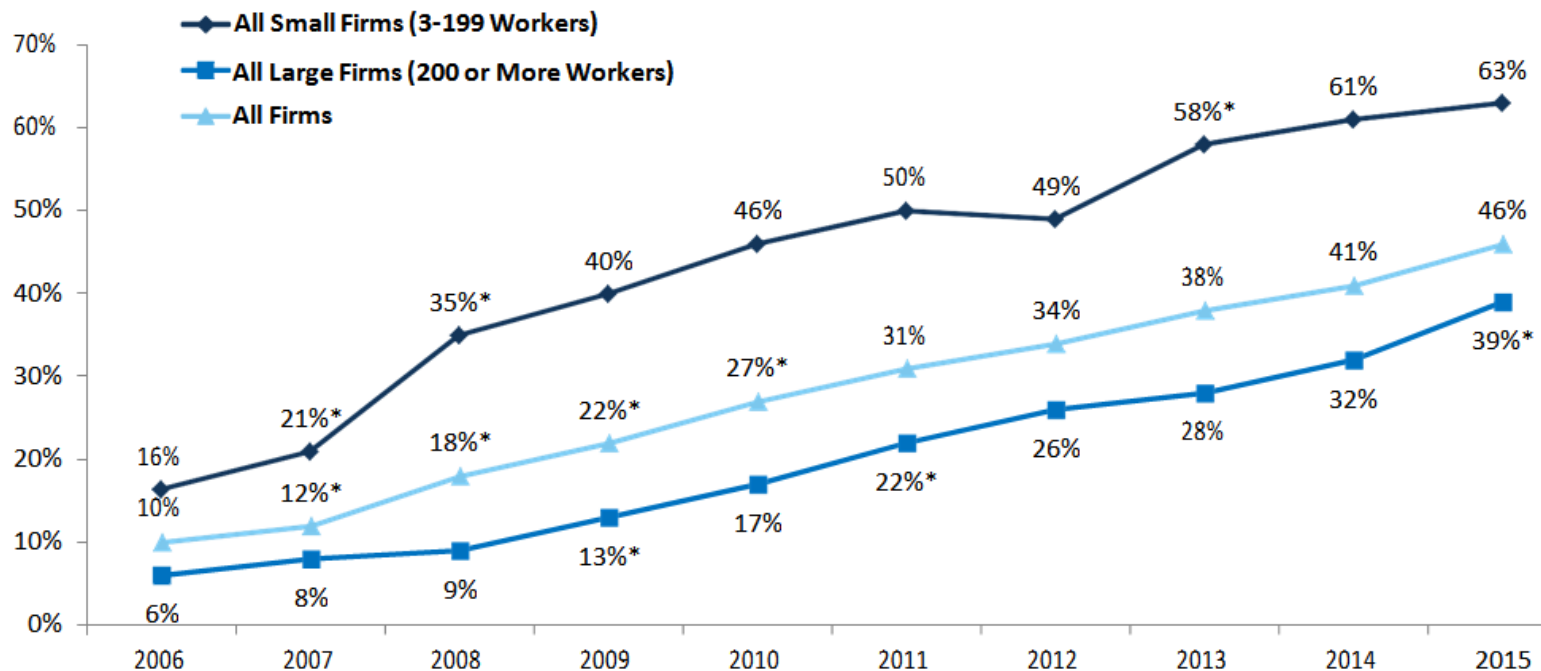
The ACA's Impact on Employer-Sponsored Plans: Percentage of Covered Workers With a General Annual Deductible for Single Coverage, 2006-2015



* Estimate is statistically different from estimate for the previous year shown ($p < .05$).

SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2006-2015.

The ACA's Impact on Employer-Sponsored Plans: Percentage of Covered Workers Enrolled in a Plan with a General Annual Deductible of \$1,000 or More for Single Coverage, 2006-2015



* Estimate is statistically different from estimate for the previous year shown ($p < .05$).

NOTE: These estimates include workers enrolled in HDHP/SOs and other plan types. Average general annual health plan deductibles for PPOs, POS plans, and HDHP/SOs are for in-network services.

SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2006-2015.



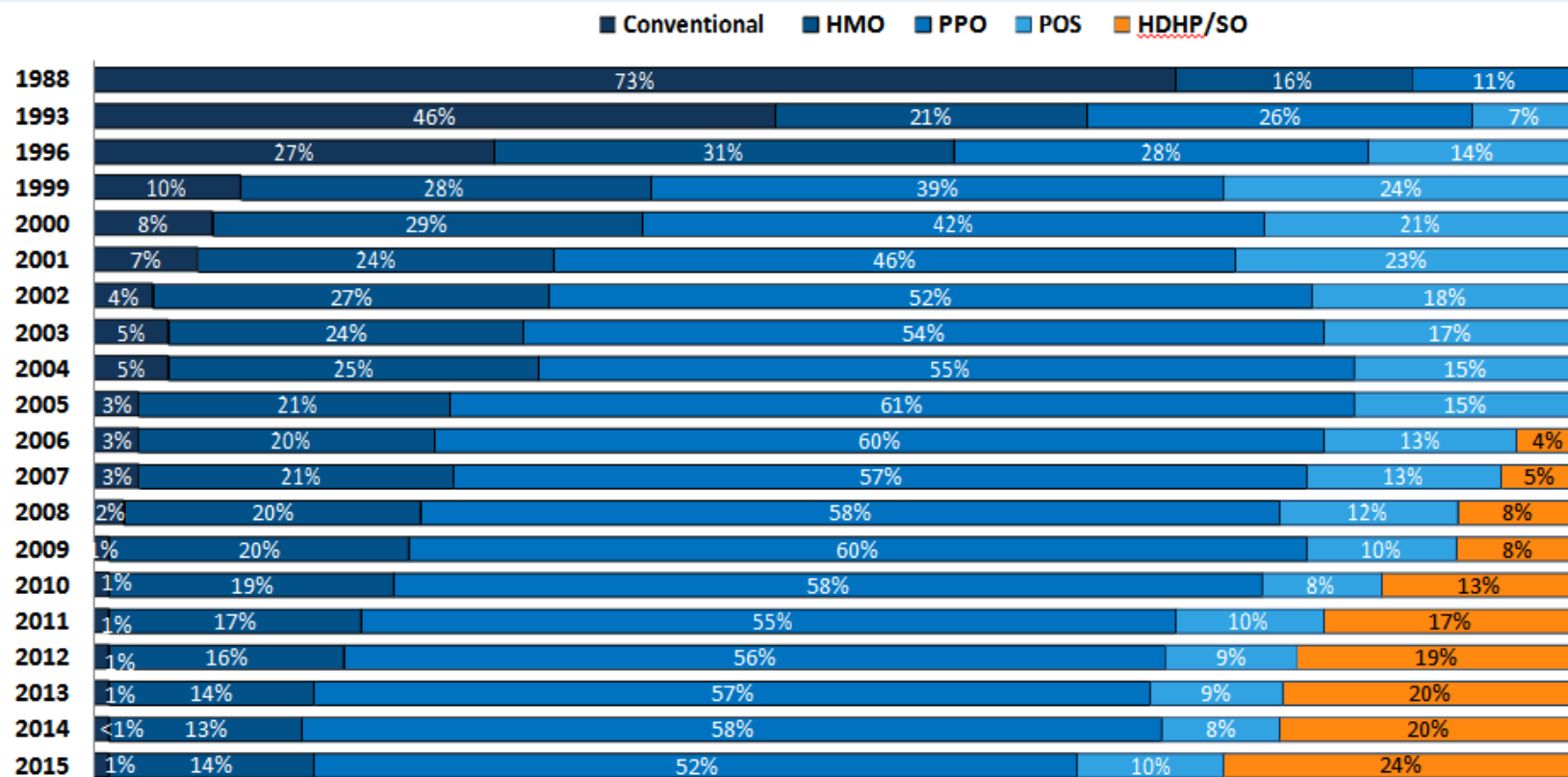
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The ACA's Impact on Employer-Sponsored Health Coverage

- **Takeaway #5: The popularity of consumer-directed health plans (CDHPs) has increased significantly**

The ACA's Impact on Employer-Sponsored Plans: Enrollment for Covered Workers by Plan Type, 2015



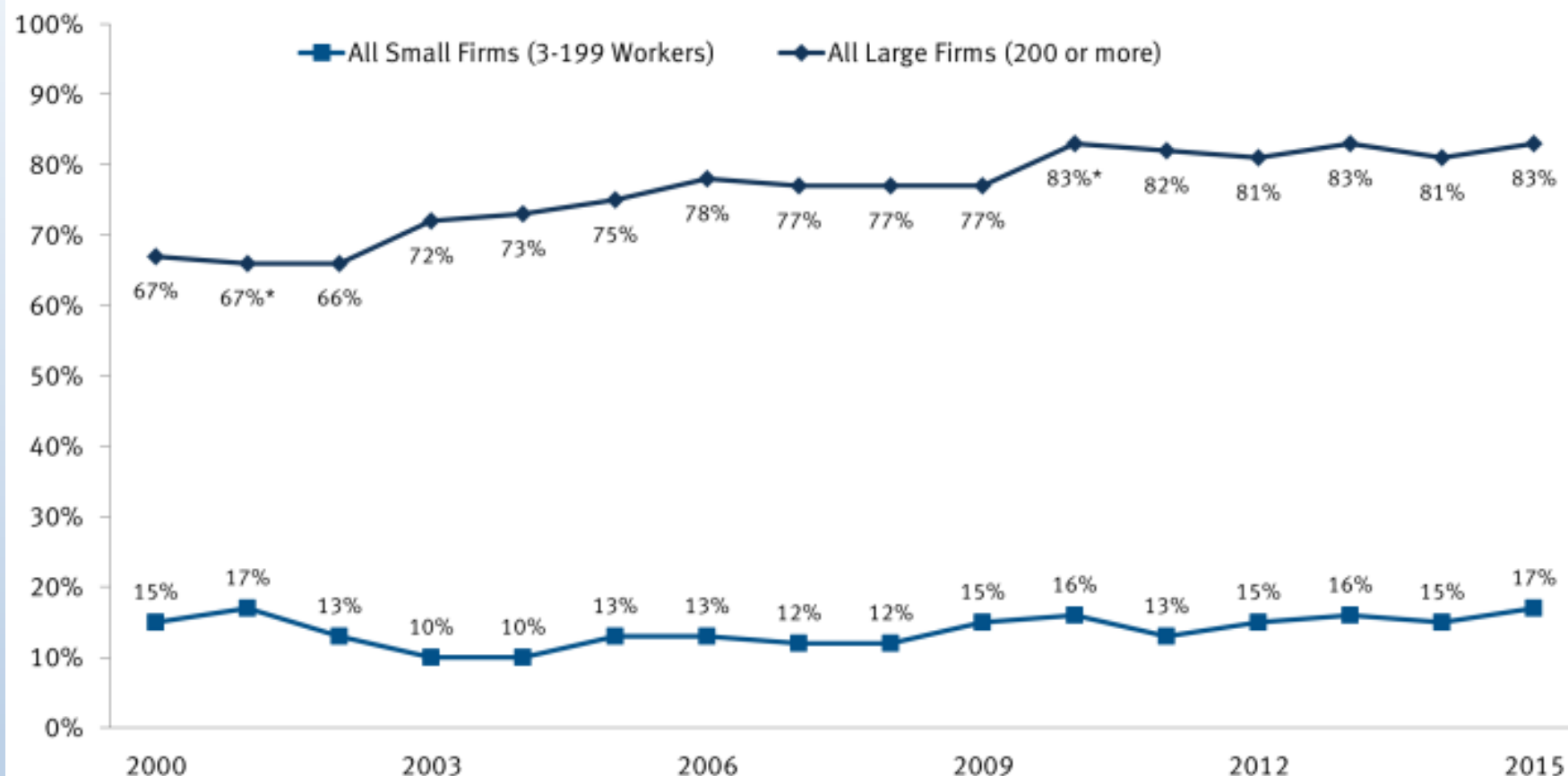
NOTE: Information was not obtained for POS plans in 1988. A portion of the change in plan type enrollment for 2005 is likely attributable to incorporating more recent Census Bureau estimates of the number of state and local government workers and removing federal workers from the weights. See the Survey Design and Methods section from the 2005 Kaiser/HRET Survey of Employer-Sponsored Health Benefits for additional information.

SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 1999-2015; KPMG Survey of Employer-Sponsored Health Benefits, 1993, 1996; The Health Insurance Association of America (HIAA), 1988.

The ACA's Impact on Employer-Sponsored Health Coverage

- **Takeaway #6: More large employers than ever are self-insuring their plans**

Figure 17
Percentage of Covered Workers in Partially or Completely Self-Funded Plans, by Firm Size, 2000-2015



* Estimate is statistically different from estimate for the previous year shown ($p < .05$).

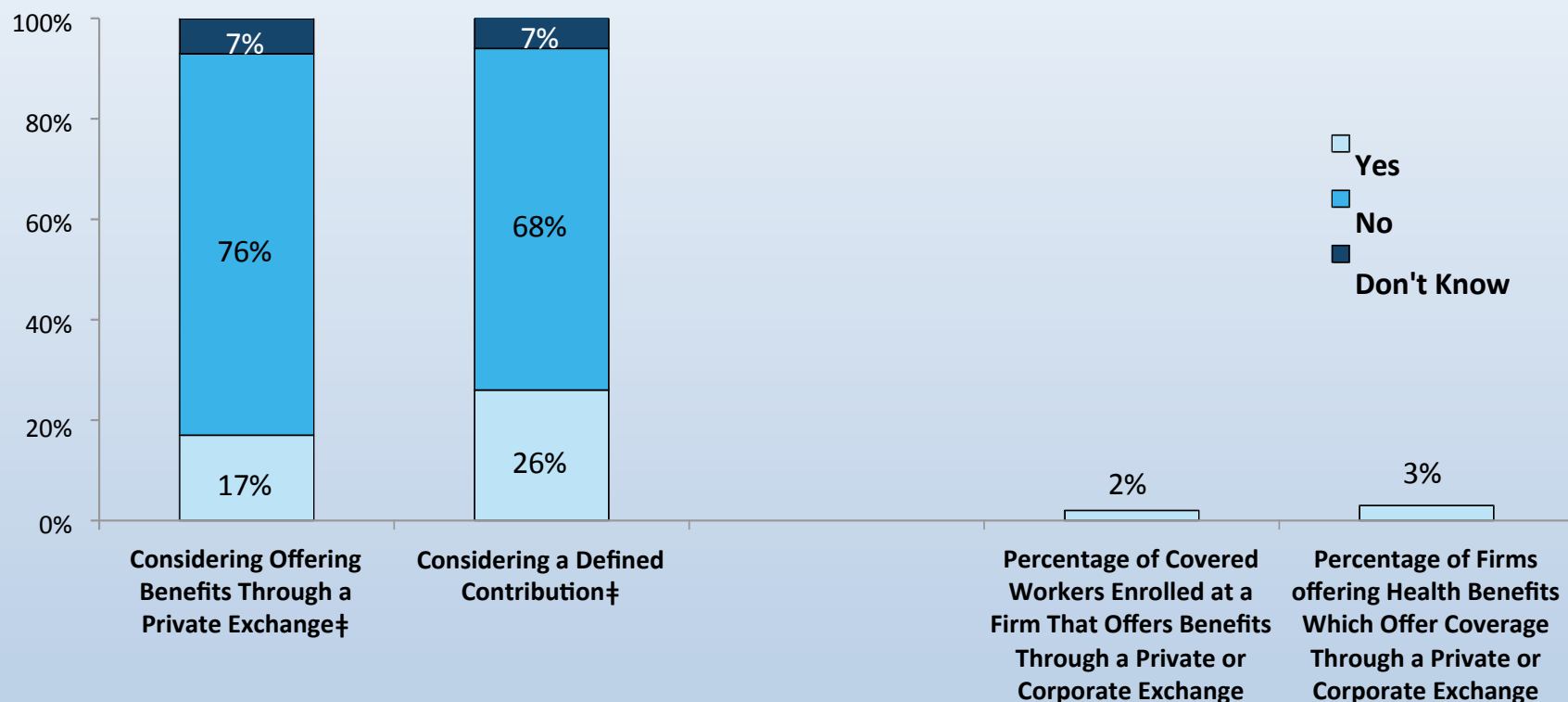
Note: Sixty-three percent of covered workers are in a partially or completely self-funded plan in 2015. Due to a change in the survey questionnaire, funding status was not asked of firms with conventional plans in 2006. Therefore, conventional plan funding status is not included in the averages in this exhibit for 2006. For definitions of Self-Funded and Fully Insured plans, see the introduction to Section 10.

Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2000-2015.

The ACA's Impact on Employer-Sponsored Health Coverage

- **Takeaway #7: Employers are using a variety of strategies to control health plan-related costs while remaining ACA-compliant**

Among Firms with More Than 50 Employees and Who Offer Health Benefits, The Percentage of Firms Considering Offering Benefits Through a Private Exchange, 2015

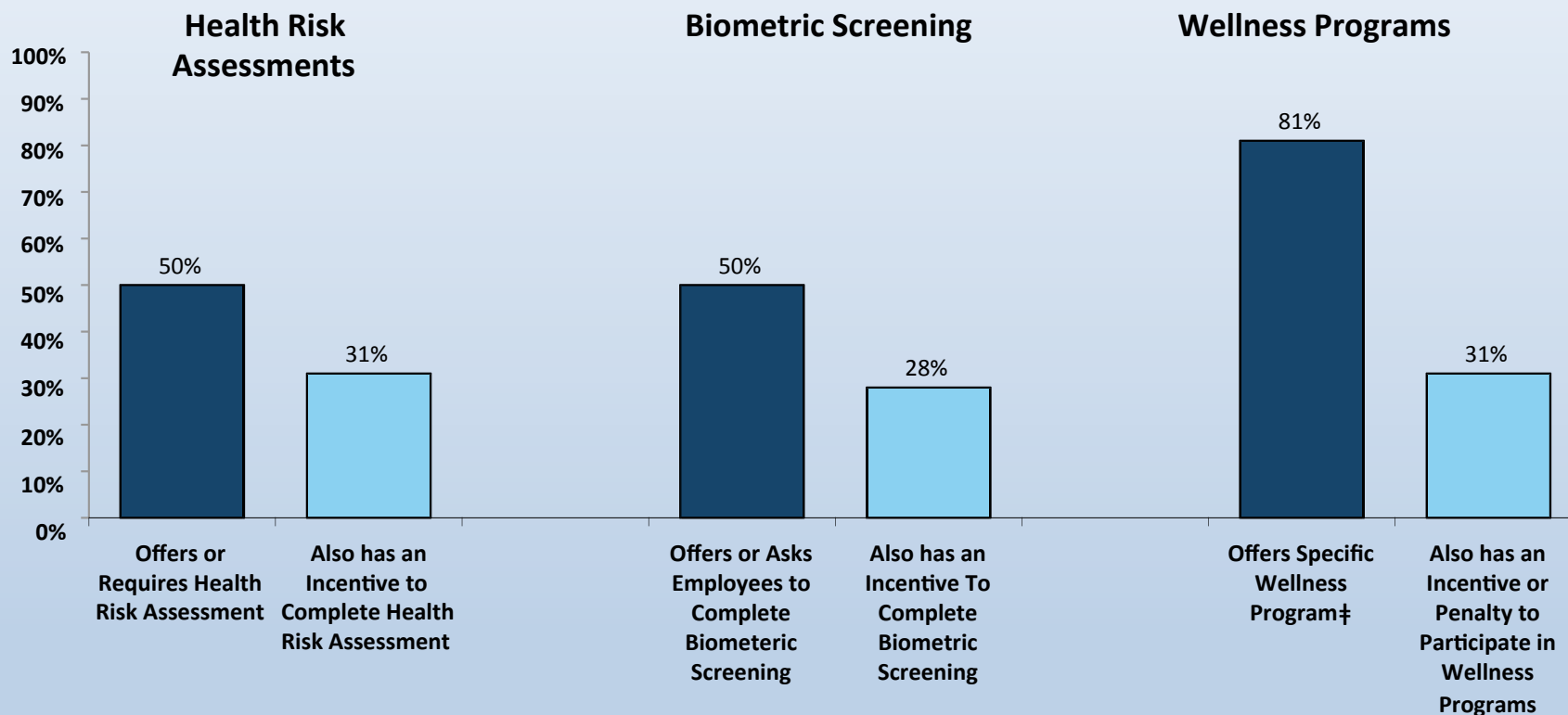


‡ These questions were not asked of firms that already offer health benefits through a private exchange.

NOTE: A private exchange is one created by a consulting company, not by a state or federal government. Private exchanges allow employees to choose from several health benefit options offered on the exchange. A defined premium contribution is a set dollar amount offered to the employee. Employees may then select one of several plans and the employee pays the difference between the defined contribution and the cost of the health insurance option they choose.

SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2015.

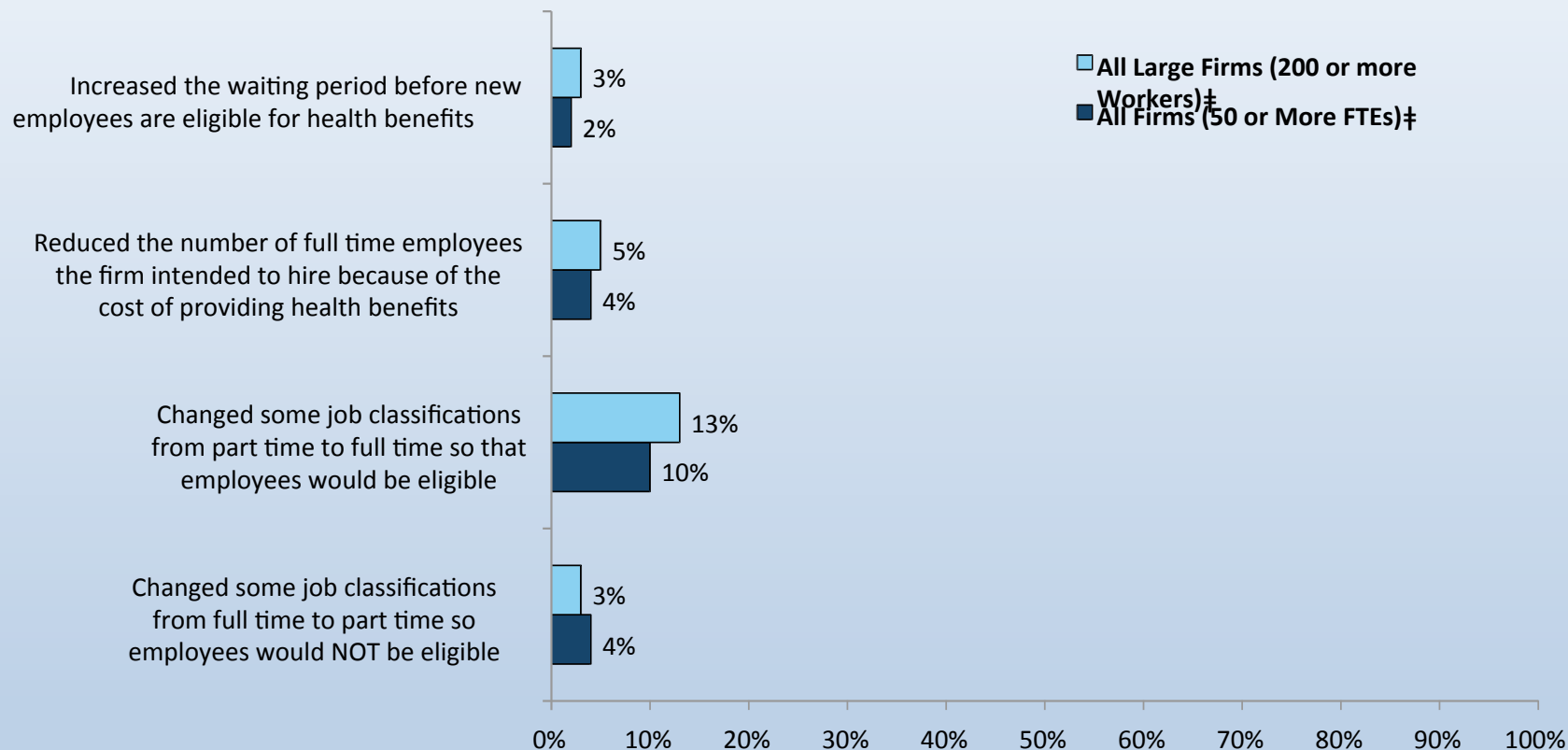
Among Large Firms (200 or More Workers) Offering Health Benefits, Percentage of Firms Offering Incentives for Various Wellness and Health Promotion Activities, 2015



* Firms which offer either "Programs to Help Employees Stop Smoking", "Programs to Help Employees Lose Weight", or "Other Lifestyle or Behavioral Coaching".

SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2015.

Among Firms Offering Health Benefits with 50 or More Full-Time- Equivalents‡, Percentage of Firms That Took Various Actions, by Firm Size, 2015



‡ Firms were asked if they took the relevant action in response to the Employer-Shared Responsibility Provisions. Firms with 50 or more full-time equivalents were asked these questions. A significant number of employers, mostly large employers did not know how many FTEs they employed. In these cases, firms with 50 or more workers were asked these questions.

Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2015.

Ongoing ACA Issues for Employers

Ongoing ACA Issues for Employers

- **Issue #1: Heightened Employer “Pay or Play” Standard Applies**
 - Starting in 2016, Applicable Large Employers must offer minimum essential coverage to substantially all (i.e., 95%) of full-time employees
 - Up from 70% for 2015
 - 2015 transition relief has generally ended:
 - Relief from “pay or play” penalties for ALEs with 50-99 full-time employees
 - “Qualifying offer method” transition reporting option

Ongoing ACA Issues for Employers

- **Issue #2: Annual Information Reporting Issues**
- Reporting Requirements:
 - **Code Section 6055:** Health insurers and employers sponsoring self-insured plans must report “minimum essential coverage” information, to the IRS and to covered individuals
 - **Form 1095-B** (Health Coverage)
 - **Form 1094-B** (Transmittal of Health Coverage Information Returns)
 - **Code Section 6056:** Applicable large employers must report details of health coverage offered to full-time employees and their dependents, to the IRS and to covered individuals
 - **Form 1095-C** (Employer-Provided Health Insurance Offer and Coverage)
 - Employers subject to both 6055 and 6056 reporting may use this form instead of using Form 1095-B plus this form
 - **Form 1094-C** (Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns)

Ongoing ACA Issues for Employers

- **Issue #2: Annual Information Reporting Issues (con't.)**
- 2015 Deadlines (as extended by Notice 2016-4):
 - Furnishing to Individuals: March 31, 2016 (instead of February 1)
 - Filing With the IRS: Deadline varies
 - Filing by Paper: May 31, 2016 (instead of February 28/29)
 - Filing Electronically: June 30, 2016 (instead of March 31)
 - Required for 250+ returns

Ongoing ACA Issues for Employers

- **Issue #2: Annual Information Reporting Issues (con't.)**
- *Good News:*
 - According to the IRS, more than 98% of information returns filed by employers and issuers have been accepted by the IRS's transmission system
 - The 2016 forms are likely to be quite similar to the 2015 forms

Ongoing ACA Issues for Employers

- **Issue #2: Annual Information Reporting Issues (con't.)**
- “Good Faith Effort” Reporting Standard
 - For 2016, employers that put forth a “good faith effort” will be considered to comply with the reporting requirements
- Limited Relief: “Good Faith Effort” only covers incorrect or incomplete information reported on the forms (i.e., TINs or dates of birth)
 - No relief available for non-“good faith” efforts or failure to timely file returns or furnish statements
 - “Reasonable cause” relief under Code Section 6724 may be available, however

Ongoing ACA Issues for Employers

- **Issue #2: Annual Information Reporting Issues (con't.)**
- **Common Errors and Problems:**
 - Part-Year Employees: Offer of coverage must be reported for *every* month of the year, if employee was full-time for at least one month of the year
 - Uncovered Months: Leaving line blank, instead of putting a “0”
 - Outsourcing to Third-Party Vendors
 - Incorrect information

Ongoing ACA Issues for Employers

- **Issue #2: Annual Information Reporting Issues (con't.)**
- **Correcting Errors**
 - Procedure (if filed electronically):
 - For Form 1094-C: Check “corrected” and refile with the IRS
 - For Form 1095-C: File corrected Form 1095-C and associated Form 1094-C (do not check “corrected,” and complete only Part I)
 - For Both: Requires two separate submissions (which can be included with the same transmittal to the IRS)
 - Submitting Corrected Forms:
 - For Form 1094-C: Submit to IRS only
 - For Form 1095-C: Send to both IRS and affected employees

Ongoing ACA Issues for Employers

- **Issue #2: Annual Information Reporting Issues (con't.)**
- Penalties for Reporting Failures:
 - Incurred for failing to file returns on time, failing to include all required information, and filing incorrect information
 - Penalty amounts:
 - Not filing an information return with the IRS: \$250/return
 - Providing an incorrect statement to employees: \$250/statement
 - Cap on total penalties is generally \$3 million/year per type of return (caps can be lifted for violations due to “intentional disregard”)
 - The earlier a reporting failure is corrected, the better:
 - Within 30 days of due date: \$50/return; \$500,000 cap
 - By August 1 of filing year: \$100/return; \$1.5 million cap
 - For 2015 tax year, above deadlines have been extended
 - Corrections should be made for any open tax years (e.g., 3-year lookback)

Ongoing ACA Issues for Employers

- **Issue #3: 2017 Summary of Benefits and Coverage (SBC) Updates**
 - Updated SBCs must be used for open enrollment periods beginning on or after April 1, 2017 (i.e., Fall 2017 for calendar-year plans)
 - Updated SBC template and instructions include:
 - New third coverage example
 - Expanded cost-sharing information
 - Disclosure language about minimum essential coverage and minimum value

Ongoing ACA Issues for Employers

- **Issue #4: Receipt of Marketplace Notices**
 - Beginning this year, the Federal Marketplace will notify certain employers when an employee has enrolled in Marketplace coverage, and qualified for subsidized assistance, for at least 1 month
 - The employer notice program will be phased in gradually
 - Employers have 90 days from the date of the notice to appeal the subsidy determination
 - The IRS determination of employer liability for employer mandate penalties is separate; IRS notification of penalty assessment is a separate notice

Ongoing ACA Issues for Employers

- **Issue #5: Health Reimbursement Arrangement (HRA) Integration Issues**
 - Absent integration with a group health plan that satisfies annual and lifetime limit requirements or some other exception (i.e., retiree-only HRAs), HRAs cannot comply with the ACA's ban on annual limits
 - Beginning January 1, 2017, an integrated HRA will not be allowed to reimburse expenses of an employee's spouse and/or dependents unless such spouse/dependents are enrolled in the employer's group health plan

Looking Forward: The “Cadillac Tax” and the ACA’s Future

Looking Forward: The “Cadillac Tax”

- **“Cadillac Tax” Delayed Until 2020**
 - Section 4980I of the Code imposes a 40% non-deductible excise tax on the portion of the aggregate cost of “applicable coverage” in excess of a statutory dollar limit, determined on a month-to-month basis
 - ACA set the initial dollar limit for 2018 at \$10,200 for self-only coverage and \$27,500 for other than self-only coverage (e.g., employee + spouse, employee + family, etc.)
 - Unclear how inflation adjustments built into the ACA that applied to 2018 limits would impact 2020 limits
 - Is repeal likely?

Looking Forward: The ACA's Future

- **Legislative Actions**

- Republican-led Congress is expected to mount new efforts to further delay and/or repeal ACA tax-related provisions
- However, no major changes to the ACA are expected to be enacted before November 2016 elections

- **Court Decisions**

- Unlikely that the U.S. Supreme Court will issue a decision threatening the ACA's viability during 2016
 - Contraceptive mandate: *Zubik vs. Burwell* opinion

Questions?

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