

# The Political Football, Spiked! Preparing for Obamacare: Updates and Strategies

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*Game Time*  
AT  
**RESTAURANT HIGH**





## Perfect Timing for Planning!



Don't wait until the end of the game to think about clock management. Now is the perfect moment to plan.



## Positioning for January 1, 2014

- Resolved: Large Employer?
- Not resolved: A strategy for addressing health care reform



# The Basics: Policy Built on a 3-Legged Stool





## Leg 3: Employer Mandate







# One Model



Source: Coolcaesar at en.wikipedia



## Panda Express: Observations

- The Basics:
  - Who is covered?
  - How are hours measured?
  - Is the plan affordable?
- Guided by the corporate philosophy
- Analyzing level of employee participation
- Corporate Policy vs. Compensation Incentives



## Dispelling Myths : Who must Play or Pay?

### Myth #1: Large Employer

- An employer that employs 50 full-time employees is a "large employer."



NO

- A "large employer" employs 50 full-time equivalent employees.





## Dispelling Myths: Small Employers are Free!

### Myth #2: Small Employers off the Hook

- All of the HCR requirements apply only to large employers.



NO

- Only the "Pay or Play" rules apply to large employers. Various other health care reform mandates have different threshold requirements.



## Dispelling Myths: Planning is Treacherous

Myth #3: Planning to avoid "Pay or Play" rules is legally risky.

- It is border-line illegal to conduct business planning designed to avoid the "Pay or Play" rules.



NO

- It is not legally risky. (p.s. planning is prudent.)



## Dispelling Myths : No Play? Penalty!

### Myth #4: Penalty automatic

- If an employer does not offer coverage, the employer will automatically pay the “no coverage” tax penalty.



NO

- A “no-coverage penalty” is only triggered when a full-time employee purchases subsidized coverage from an exchange.





## Dispelling Myths: Employees must be covered

Myth #5: Must cover

- To "Play", large employers must cover full-time employees (and their dependents).



NO

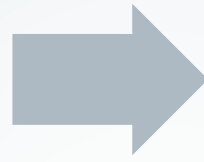
- To "Play", employers must offer coverage.



## Dispelling Myths: Most Employees Covered

### Myth #6: All Employees

- To “Play”, large employers must offer coverage to all employees.



NO

- To “Play”, employers must offer to all full-time employees and their dependents.





## The Goal of the Session: Risks & Strategies

Where is  
the risk?

What are  
some  
strategies?



## Triggering Penalties: Full-Time Employee who Qualify for Subsidized Coverage

Must be a citizen or legal resident

Has Household Income less than 4 x federal poverty line (FPL) (about \$46,000 for an individual and \$94,000 for family of 4)

Was not offered enrollment in employer sponsored plan that meets the minimum value test and/or is "affordable" to employee

Is not eligible for other specified coverage, including Medicare Part A, Medicaid, CHIP, TRICARE



## Employer Mandate: What does it mean to PLAY?

1) offer "minimum essential coverage" to "substantially all" (95% of F/T employees or, if greater, 5 FT employees)

Employer must

2) coverage must be offered to dependents (children up to the age of 26, no requirement to cover spouses)

For 2014, employers that "take steps" toward offering child coverage will not be liable for penalties solely on this basis



## I: "No Coverage" Annual Penalty

1. Coverage not offered to substantially all F/T and/or
2. Not offered to dependents

+

1 full-time employee purchases subsidized coverage

= \$2,000 x [F/T ees - 30]

(\$166 a month per F/T employee)



## II: "Unaffordable Coverage" Annual Penalty

Coverage Offered,  
but not affordable  
or not minimum  
value

+

1 F/T and  
purchases  
subsidized  
coverage

=

\$3,000 per  
full-time ee  
who  
purchases  
subsidized  
coverage  
(\$250 a month)  
Capped at 1<sup>st</sup>  
penalty





# Penalty: Elements of a Penalty

## Elements

"Offer effective opportunity"

"Substantially all" – 95 % or 5 FT

And their dependents (children up to age 26;  
not spouses)

Affordable coverage

Cost of ee-only coverage is less than 9.5% of household income

Minimum value test



## Employer Mandate: What does it mean to PLAY?

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### **“Minimum Value”:**

Plan’s “share of the total allowed costs of benefits provided must be at least 60% of such costs”

HHS/IRS plan to develop a calculator

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Design-based safe-harbors/checklists

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Actuarial certifications

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### **“Affordable”:**

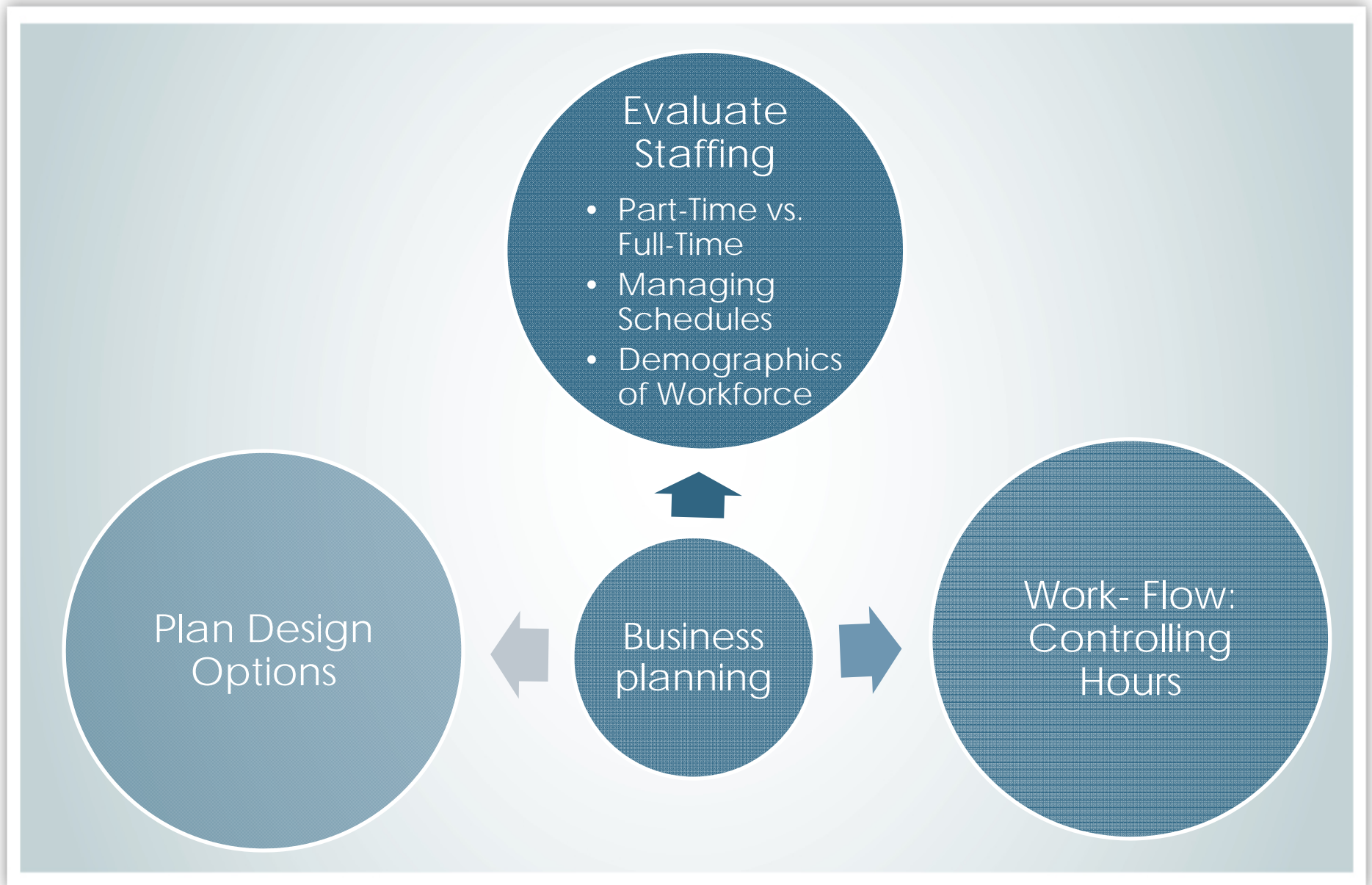
Employee costs for self-only coverage is less than 9.5% of household income

Safe-harbors for Employers

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# Employer Mandate: Business Planning





## Employer Mandate: Full-Time Employees and FTEs

Full-Time Employee?

An employee who works at least 30 hours per week (130 hours of service in a calendar month is equivalent)

Calculating FTEs: Add total hours worked by non-FT employees. Divide by 120.

Example: Company has 25 part-time employees. In one month they work on average 1,500 hours (15 hours a week). They comprise 12.5 FTEs. If the employer has 8 FT employees, that entity has 20.5 FTE.

Determining hours of service

**Hourly Employees:** Actual hours worked + paid time off

Paid Time Off: vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence

**Salaried Employees:** Count 1) actual hours, or 2) adopt an approved equivalency method





## Strategies for Limiting Exposure

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Identify the penalty you're planning around.

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Adopt a strategy

Controlling hours/cutting hours

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Small Employers – Limiting full-time employees to below 30

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Offering No Coverage to full-time employees

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Offering minimum value employer-sponsored coverage to full-time employees/dependents + strategy to make it affordable

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## Areas for Advice:

Adopting measurement periods

Seasonal employees

Short-term employees

Interplay with waiting periods



# Employee Communication: What is at stake?

## Building Employer Reputation

- Tone
- Factual Accuracy
- Consistency in Messaging



## Guiding Employee Understanding

- Managing Expectations
- Educating Individuals
- Creating a Culture



Potential Upside:  
Creating Employer Capital



Thank you!



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