



Health Reform Implementation: Political and Economic Outlook for Affordable Care Act (ACA)

March 2011

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Agenda

- **Key ACA Goals and Provisions**
- **Political and Economic Outlook**
- **Timeline for Implementation & Impact on Employers**



ACA Goals & Major Provisions



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External Catalyst: Healthcare Reform

Americans generally want health reform to:

- Broaden the population that receives healthcare coverage
- Improve the access to healthcare services
- Improve the quality of healthcare
- Decrease the cost of healthcare

The Affordable Care Act Has Three Major Goals

1

Coverage & Insurance Market Reform

Make insurance more accessible and affordable for all individuals

2

Delivery & Payment System Reform

Pay for quality instead of volume of care

3

Financing Strategies for Health Reform

Find sustainable funding to pay for reform provisions

Health Reform Expands Coverage to Uninsured Via Four Approaches

Medicaid: Expands Medicaid to 133% of Federal Poverty Level

CHIP: Reauthorizes Child Health Insurance Program

Insurance Exchanges:

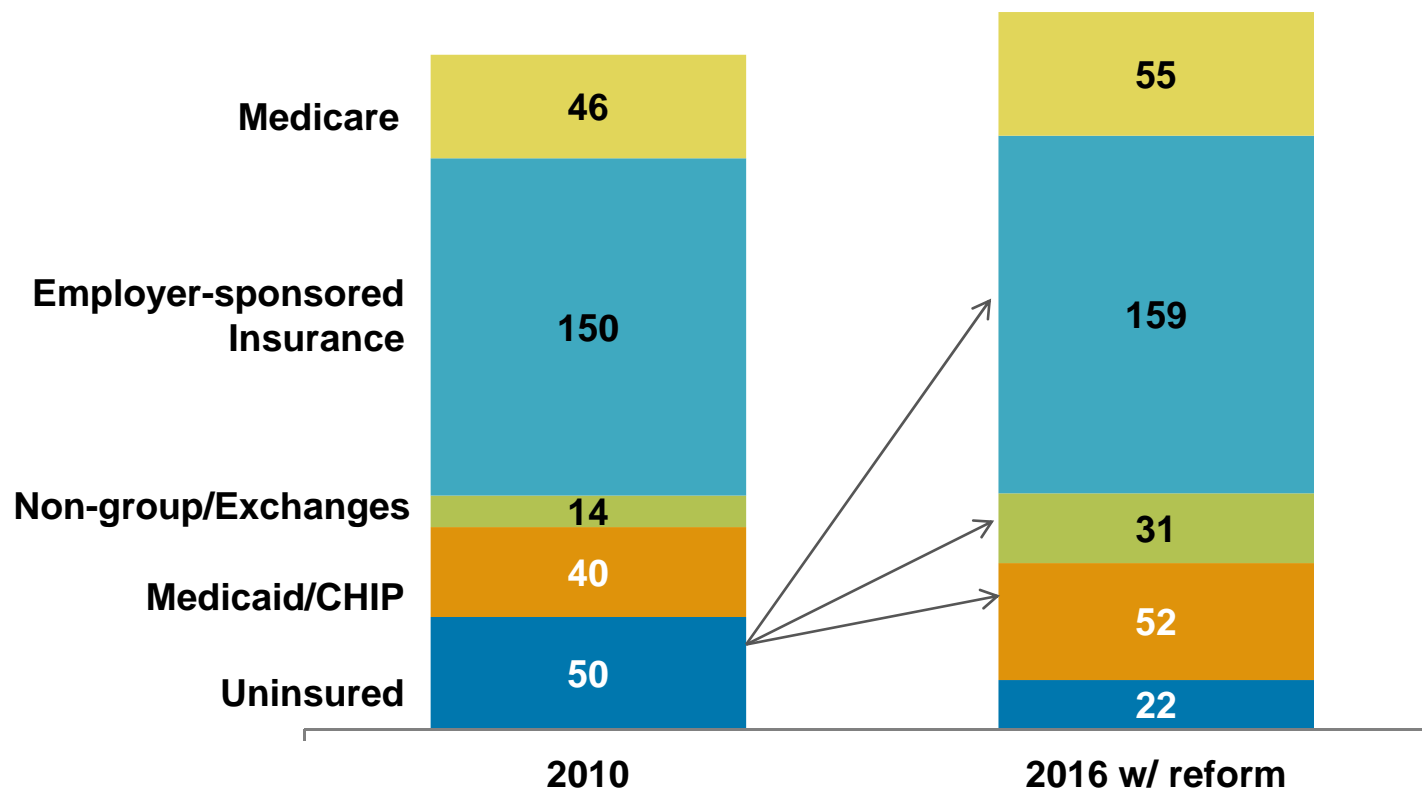
- » Establishes state-based insurance exchanges

Mandates:

- » Imposes financial penalties on individuals who remain uninsured
- » Imposes financial penalties on employers that do not offer coverage

Medicaid Expansion and Insurance Exchanges Account for the Bulk of New Insurance Coverage

Expected Sources of Coverage, in Millions of Persons



Source: CBO March 20, 2010 Cost Estimate of the combined effect of H.R. 4872, the Reconciliation Act of 2010, and H.R. 3590, the Patient Protection and Affordable Care Act, as passed by the House March 21, 2010; Medicare Data: CBO's March 2009 Baseline, March 24, 2009.

CHIP = Children's Health Insurance Program

Insurance Regulations Increase Pressure on Plans and Create Market Uncertainty

Insurance Market Reforms:

- » Guaranteed issue, prohibition of lifetime and annual limits

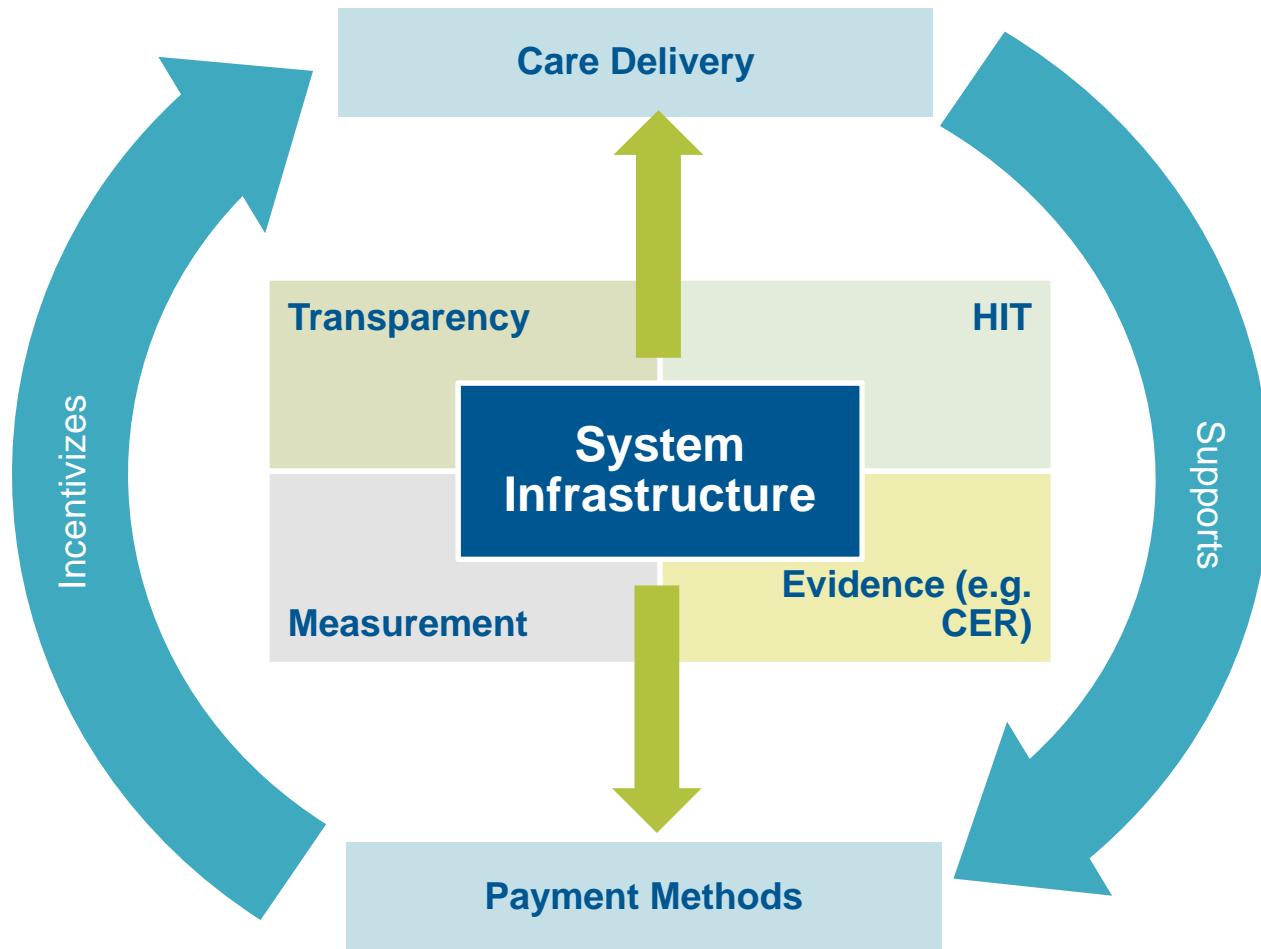
Medical Loss Ratio (MLR) Requirements & Rate Review:

- » Requires large group health plans to maintain an MLR of 85% and small group plans to maintain an MLR of 80%
- » State and federal governments will review annual plan premium increases

CMS Scrutiny:

- » CMS has heightened scrutiny of Medicare Advantage and Medicare Part D plan operations via greater compliance standards and frequent audits

ACA Attempts to Create More Data, More Communication and Align Incentives to Enable Delivery of Better, Higher Value Care



Several Payment and Delivery Reform Models Seek Greater Cost Savings for Public Programs

CMS Center for Medicare and Medicaid Payment Innovation (CMMI)

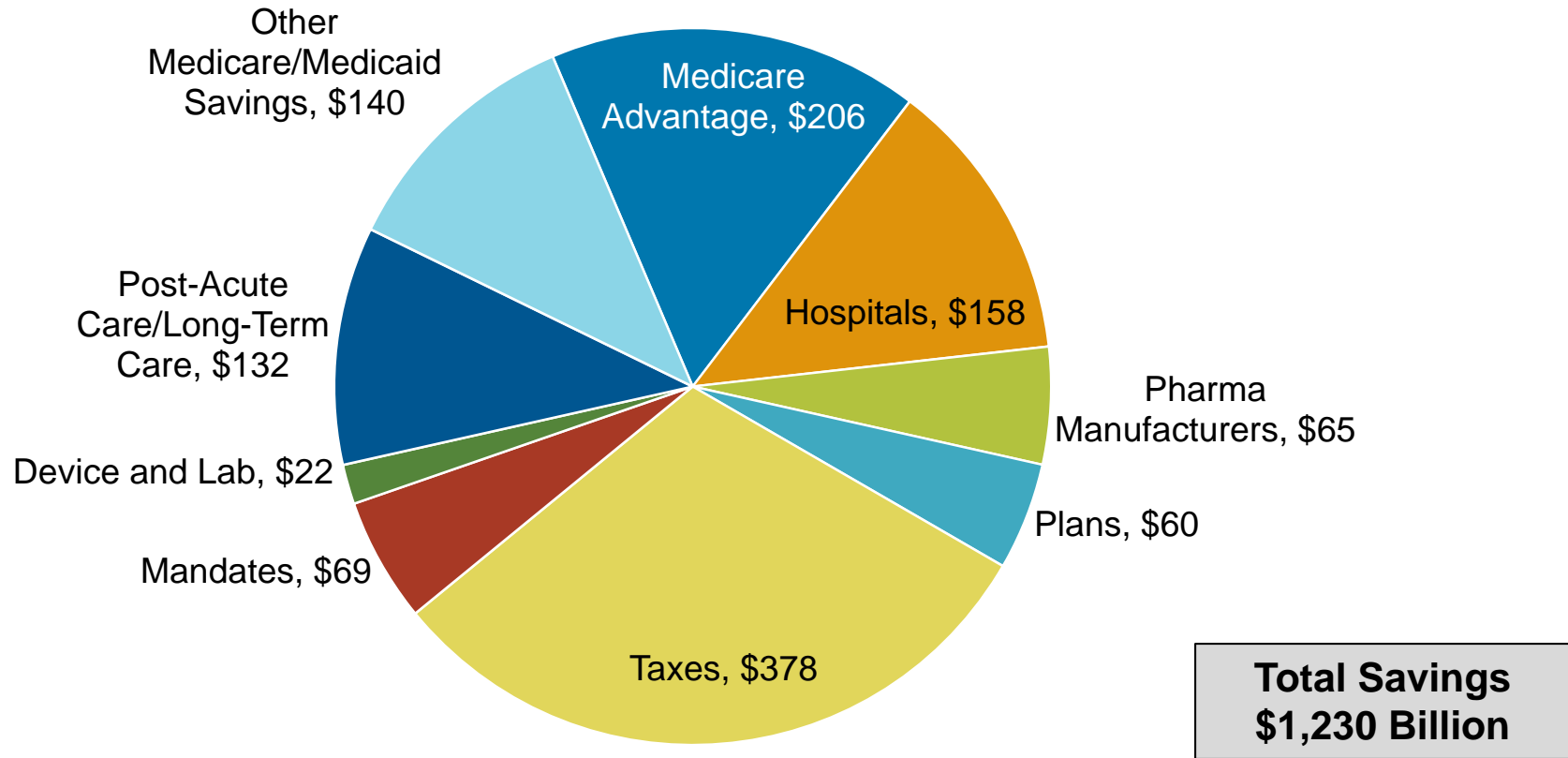
- Test innovative payment and service delivery models
- Expand those shown to reduce Medicare expenditures and improve quality
- \$5M for FY2010; \$10B over FY2011-2019; \$10B for every subsequent 10-FY period beginning in 2020

Independent Payment Advisory Board (IPAB)

- Tasked with reducing the per capita rate of growth in Medicare spending
- Starting in 2014, the Board may propose changes to Medicare to limit spending growth
- May recommend changes to Part D to generate required savings

Sources of Funding for the Final Health Reform Law

Federal Sources of Funds, in Billions, Over 10 Years



Source: CBO and JCT Score of H.R. 4872, the Reconciliation Act of 2010, proposed March 18, 2010, in combination with the Senate Patient Protection and Affordable Care Act (H.R. 3590), as passed December 24, 2009. Score published March 20, 2010. Supplemental Data Published March 20, 2010.

Note: Other Medicare/Medicaid Savings proposals include Medicare Commission, imaging, ACOs, fraud and abuse and others.





Political and Economic Outlook



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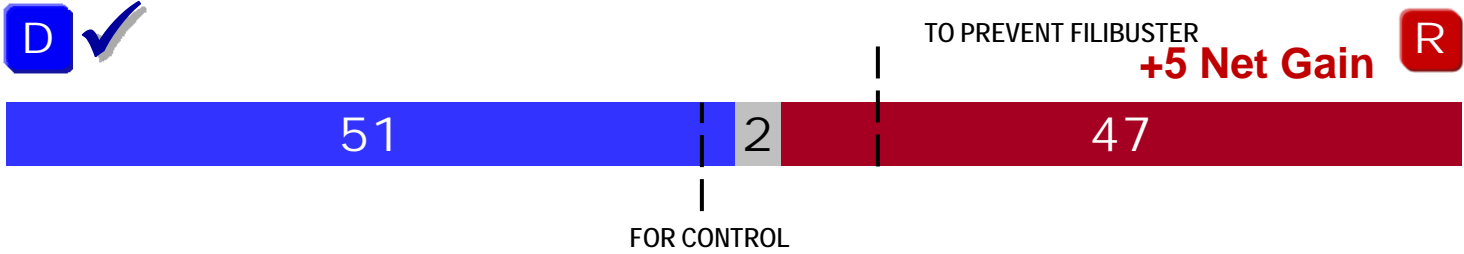
The Status of the Affordable Care Act?

Kaiser Family Foundation survey conducted in Feb 2011

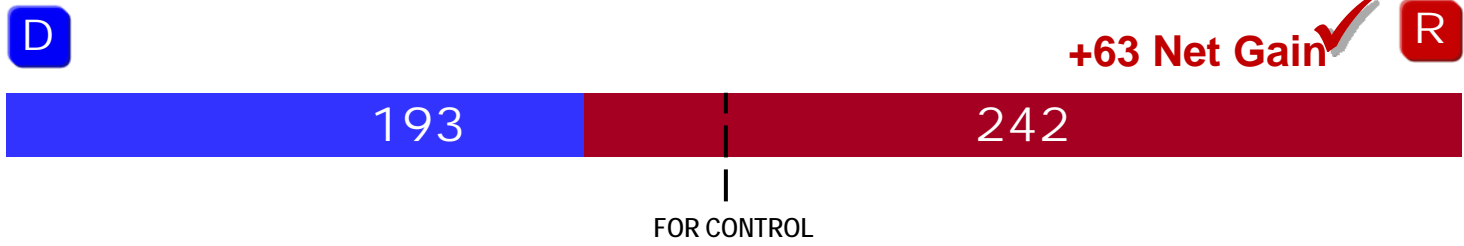
- **22%** of Americans believed it had been repealed
- **26%** were unsure if it had been repealed or were unwilling to say
- Only **52%** correctly answered that the ACA had not been repealed

Republicans Gained Control of the House in the November 2010 Mid-Term Elections

U.S. Senate



U.S. House of Representatives



Three Major Strategies for Congress to Oppose Reform or Interfere with Implementation

Repeal or Amend

Amend or repeal all or specific provisions of the ACA

- Political and procedural hurdles make it unlikely the entire ACA will be repealed
- Certain provisions in the ACA may be amended

Appropriate

Withhold, reduce, or eliminate funding to existing and new programs authorized by the ACA

- May block discretionary spending to agencies with implementation responsibilities
- New authorizations unlikely to be funded

Influence

Exert oversight techniques to influence federal and state ACA regulatory action

- Hearings and investigations slow the implementation process

The Congressional Budget Office (CBO) scored repeal of ACA as adding \$210 billion to the deficit over 10 years¹ – which has reinforced the strategy to defund, rather than repeal ACA

¹ Congressional Budget Office. Letter to the Honorable Jerry Lewis, May 11, 2010.

Specific Provisions Targeted for Repeal or Amendment

- As ACA opponents seek to make changes short of repealing ACA, particular provisions are already targeted for repeal or amendment including:
 - » 1099 tax reporting requirement
 - » Independent Payment Advisory Board (IPAB)
 - » Changes to the medical loss ratio requirements to exclude brokers' fees from the calculation
 - » Legislation, such as the Wyden-Brown proposal in the Senate, to offer states greater flexibility in opting out of ACA requirements

States Take Varied Approaches to Reform Implementation

Resisting Implementation

Some states have been so strong in their opposition that they have resisted implementation, including funding opportunities

Alaska, which is one of states involved in the multistate lawsuit against the ACA, has refused several federal grants

Voicing Opposition, But Moving Forward

Other states have strongly voiced opposition, but continue to press forward with implementation efforts


Virginia has challenged the constitutionality of the individual mandate, but also has established a task force charged with implementation

Seeking Exemptions for Provisions

States have expressed the need for increased flexibility from requirements in the law, including the minimum MLR and Medicaid requirements

Maine received a waiver from the MLR requirement in the individual market. 7 additional states have applied for waivers.

Several Have Challenged the Constitutionality of the Individual Mandate; Court Rulings Mixed So Far

Initial Ruling	Lawsuit & Decision Date	Decision
	Thomas More Law Center v. Obama <i>October 7, 2010</i>	Judge Norman Moon (<i>Democratic appointee</i>) ruled that individuals are “making an economic decision to try to pay for health care services later, out of pocket”
	Liberty University v. Geithner <i>November 30, 2010</i>	Judge George Steeh (<i>Democratic appointee</i>) found the individual mandate was “essential to the larger regulatory scheme” of the healthcare reform legislation.
	Virginia v. Sebelius <i>December 13, 2010</i>	Judge Henry E. Hudson (<i>Republican appointee</i>) ruled that the individual mandate is unconstitutional, but is severable from the overall healthcare reform legislation
	Florida v. Health & Human Services <i>January 31, 2011</i>	Judge Roger Vinson (<i>Republican appointee</i>) ruled the individual mandate as unconstitutional, and “not severable” from the rest of the law
	Mead, et al. v. Holder <i>February 22, 2011</i>	Judge Gladys Kessler (<i>Democratic appointee</i>) ruled that an individual's decision to not purchase health insurance is an active choice "that had clear effects on the marketplace by burdening other payers with the cost of uncompensated medical care."

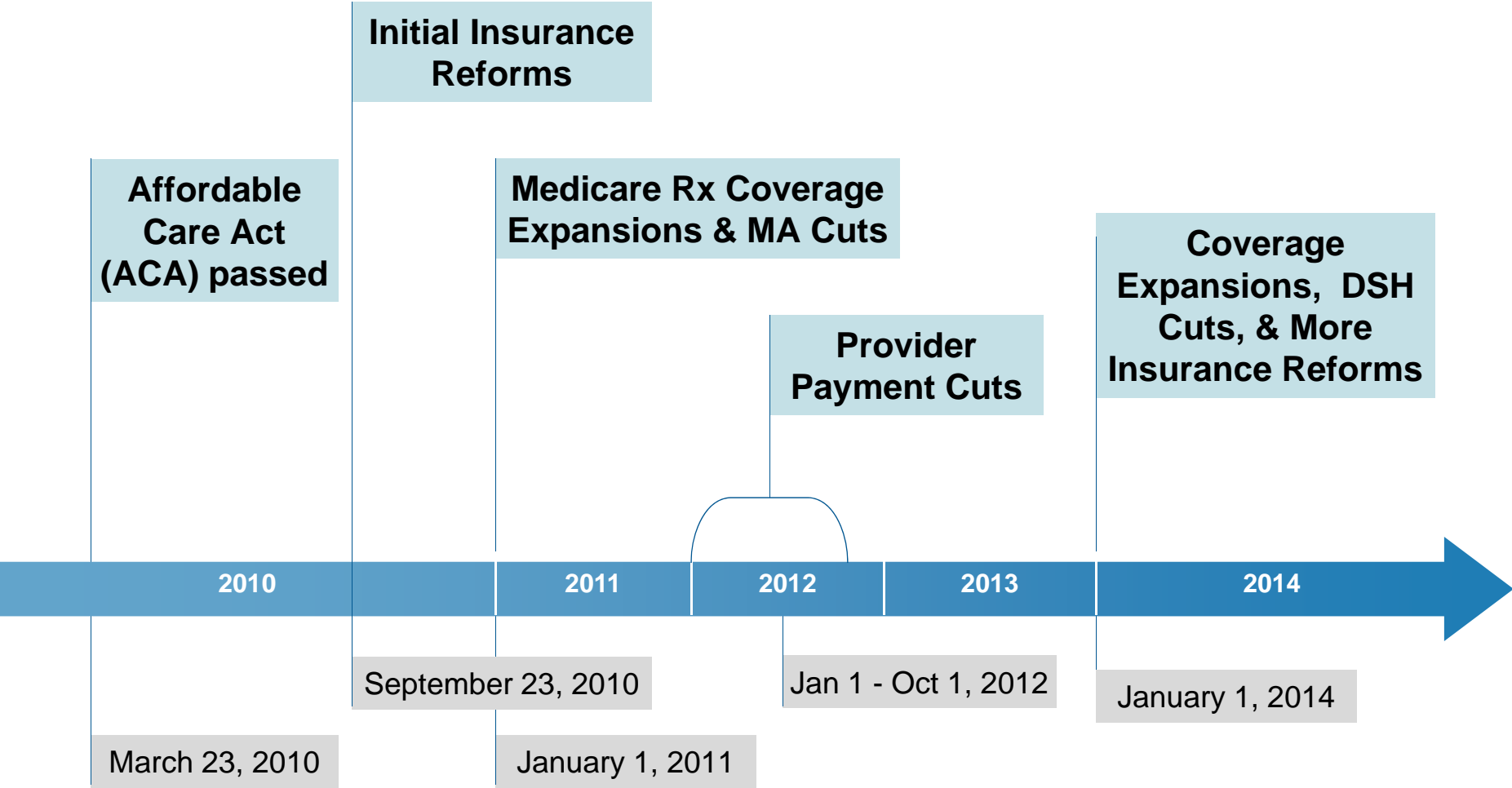
Supreme Court Will Ultimately Decide – 3 Possible Scenarios

- 1. The individual mandate does not violate the Constitution.**
 - 2. The individual mandate is unconstitutional and must be stricken, but won't deem the entire law unconstitutional**
 - 3. The individual mandate is unconstitutional and therefore the entire law is unconstitutional and will be struck down.**
- » Most experts believe scenario 3 is highly unlikely



Timeline for Implementation and Impact on Employers

Snapshot of Reform Milestones



DSH = Disproportionate Share Hospital

Some Things Are Already Happening

Consumer

- Dependent coverage up to 26
- Coverage for kids with pre-existing conditions
- No lifetime coverage limits; minimum annual limit
- No cost-sharing for preventive services
- High risk
- Begin to close Medicare Part D donut hole

Employer

- Tax subsidies for small businesses
- Reinsurance for pre-Medicare retirees
- Cannot discriminate in employee eligibility based on wages

Provider

- Lower payments for preventable readmissions
- Start of value-based purchasing
- Market basket reduction 0.25%
- Medicare Advantage plan payments leveled in 2011

Key Provisions for Employers

1

Employer Mandate

Requires certain employers to offer health coverage for employees

2

Health Insurance Exchanges

Allows some employers to enroll employees in Exchange plans

3

Insurance Market Reforms

Requires all commercial health plans to comply with new rules

4

Essential Benefit Requirements

Requires small group health plans to offer minimum requirements

5

Taxes and Fees

Imposes new taxes and fees on select health plans and employers

Most Provisions in the Law Target Small Businesses

Advantages

- Tax credits for some small businesses
- Small businesses (<100) can purchase coverage through the exchanges
- New premium incentives for employee wellness
- Reinsurance program for retirees

Challenges

- New administrative requirements on employers
- Premiums could rise for some businesses
- Penalties for companies do not offer coverage to employees
- Changes to Part D retiree drug subsidy

Will employers drop coverage as a result of reform?

Conclusions

- ACA primarily expands coverage and reforms insurance practices
 - » Limited provisions targeting cost and quality
- Republicans will make attempts to repeal, de-fund, and modify portions of ACA
 - » Efforts before 2012 will largely be unsuccessful, but Presidential election could dramatically change the outlook
 - » Supreme Court constitutionality decision is critical for reform success
- Most major changes take effect in 2014
 - » Limited impact on large businesses; new opportunities for small companies to offer coverage
 - » Outlook for long-term stability of employer-sponsored insurance is uncertain

*Note that key industries are likely to oppose a weakening of the mandate.



Questions

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