A Union of Professionals

Summary of Affordable Care Act Provisions that Affect Bargaining

Employer Responsibility under the ACA:

- Employers are not required to offer insurance, but large employers (50+ employees) may be subject to "fair share" penalties if they do not offer coverage to their full time employees (30+ hours per week).
- Penalties apply to large employers who:
  - Do not offer coverage to full time employees and their children, or
  - Offer coverage that is
    - Unaffordable (employee premium contribution for self-only coverage for the employer's lowest-cost plan exceeds 9.5% of household income) or
    - Inadequate (does not cover at least 60% of medical costs)
- Penalties apply to large employers who have at least one full-time employee receiving a subsidy (premium credit) in the exchange. Penalties are calculated as follows:
  - If the employer does not offer coverage, the penalty is $2,000 x number of FT employees minus 30
  - If the employer offers coverage but it is either unaffordable or inadequate, the penalty is the lesser of $3,000 x number of FT employees who receive subsidy <u>or</u> $2,000 x number of FT employees minus 30

Health Insurance Marketplaces and Subsidies to Buy Coverage

- Each state will have a new marketplace (formerly called exchange) where individuals and small businesses will be able to buy coverage.
- The marketplaces will make shopping for insurance easier by offering coverage that meets a standard for benefits and falls into standardized tiers of coverage, based on how generous the plan is. Platinum plans pay 90% of covered costs; Gold: 80%; Silver: 70%; Bronze: 60%.
- Catastrophic plans (with less than 60% value) are only available to people under 30 years of age and those who are exempt from the individual mandate because there's no affordable coverage available.
- People with household income between 100 and 400% of poverty (between $11,490 and $45,960 for an individual, and between $23,550 and $94,200 for a family of 4) who are <u>not</u> eligible for other "acceptable" coverage, such as an employer-sponsored plan that is adequate and affordable, Medicare or Medicaid, will be eligible for premium subsidies for insurance purchased in a marketplace.

What to Watch For:

- **Changes to Benefits:** The vast majority of employer plans – more than 98% by one estimate – already exceed the test for "adequate" coverage (60% value). However, employers are free to lower the value of their current coverage and some may increase deductibles and co-pays in their plans in order to lower premiums to meet the test for "affordable" coverage.

Employers with more than one plan option could lower benefits in richer plans to make their lowest cost plan good enough to pass the tests for affordable and adequate.

- **Changes in Hours:** Employers have considerable flexibility to determine whether employees with variable hours meet the minimum of 30+ hours per week, on average, to qualify as full time and eligible for health benefits. Employers can also lower hours for those near 30 hours a week in order to avoid the employer responsibility to offer coverage to those employees.

- **Marketplace Coverage May Not Be Good Enough:** The health insurance marketplaces and the availability of subsidies for low and moderate income workers will provide new coverage options for those who either don't have coverage or whose employer-sponsored plan is unaffordable or inadequate. However, the subsidies are targeted to provide the greatest help to those at the lower end of the income scale and beginning at about 250% of poverty ($28,725 for an individual or $58,875 for a family of 4), even subsidized coverage requires relatively substantial premiums, co-pays and deductibles. In addition, the premium subsidy is based on the second lowest cost Silver plan, which is less generous than the typical employer plan. Individuals that want to buy more expensive or more generous coverage will have to pay the difference.

- **Changes in Who is Covered Under Employer Plan:** Large employers must offer coverage to full time employees and their children. They do not have to offer coverage to spouses and they don't have to subsidize coverage for children. In addition, the test for "affordable" coverage applies to the cost of self-only coverage, even if the plan covers the children. That means coverage may be "affordable" for the worker but not the children, and the spouse may not be covered at all. The spouse may qualify for subsidized coverage in an insurance marketplace and the children may qualify for coverage through CHIP, but nothing protects those families from unaffordable costs with premiums and co-pays for 3 different sources of coverage (employer, marketplace and CHIP).

- **Employer Responsibility Requirements Don't Guarantee Coverage:** The employer "fair share" penalty may not be sufficient to prevent employers from dropping coverage in some circumstances, particularly where there are low wage workers who would qualify for subsidies in a marketplace. Employers that drop coverage will lose out on tax benefits for offering coverage, and their workers will lose a tax-free benefit, but it will be hard to know whether and how employers may change their benefits as the ACA changes to our health insurance system take effect.