JULY/AUGUST 2015

# HR INSIGHTS

Magazine

*from the eyes of industry leaders*

## It's Time for HR PROS to Put on Their MARKETING HATS

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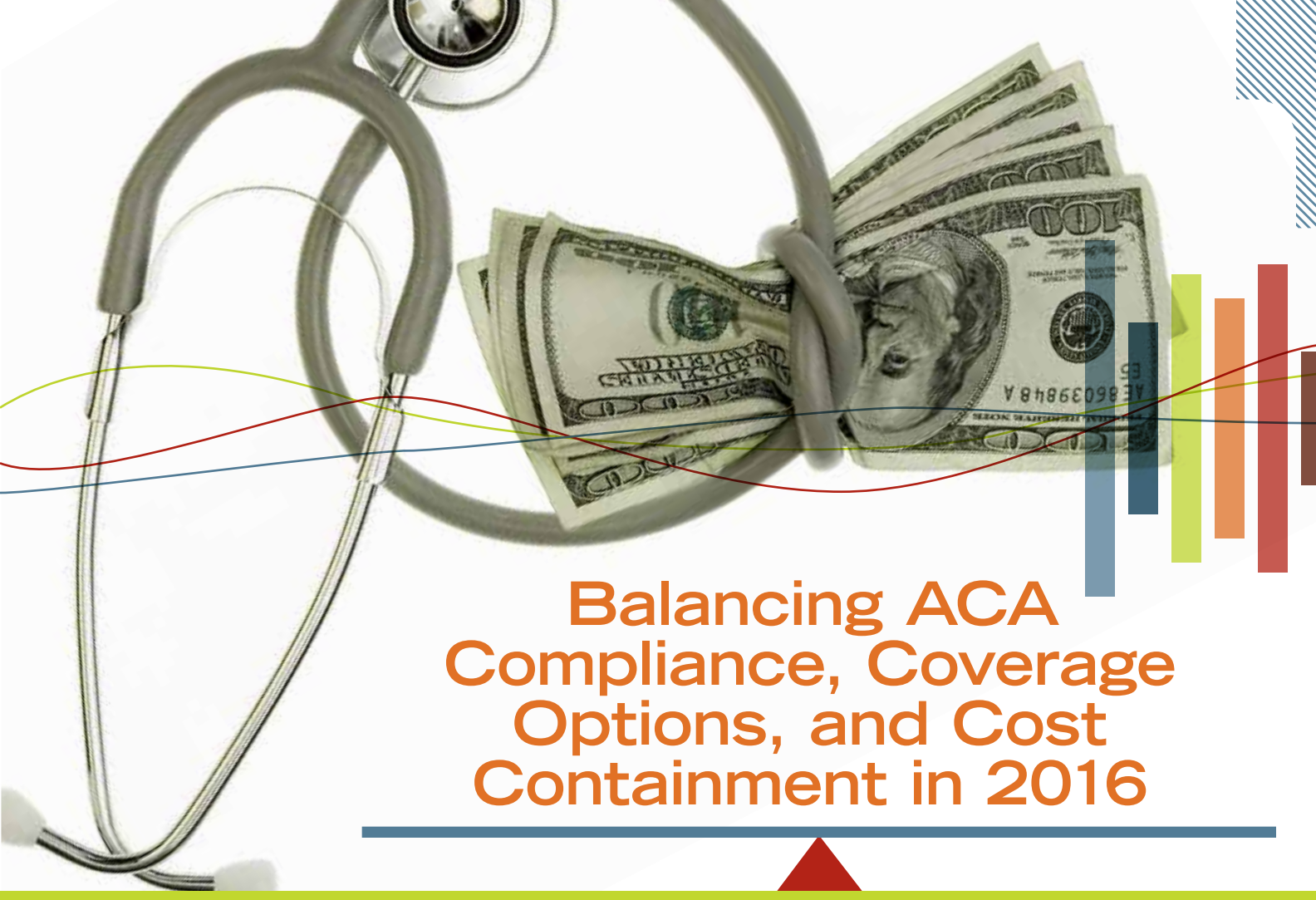


# Balancing ACA Compliance, Coverage Options, and Cost Containment in 2016

BY J. MARSHALL DYE

As we pass the midpoint of 2015, thousands of organizations across America are still adjusting to the dramatic changes brought on by the highly complex and ever-changing Patient Protection and Affordable Care Act (ACA), the most sweeping healthcare legislation in our country's history. With half a year under our collective belts since employer mandates took effect, both organizations that use staffing companies and the staffing firms themselves are still sorting through changes to health and benefit plans, pondering the impact of new rules and regulations, and preparing for expanded reporting requirements, higher costs, and unpredictable participation levels.

But the entire system could be turned upside down this summer when the United States Supreme Court hands down a decision on *King v. Burwell*. (As of this writing, a decision had not yet been announced.) If the plaintiffs, who argue that the ACA allows for subsidies to be granted only on state-run (and on not federal) exchanges, win their case, some experts predict that as many as five million Americans who obtained coverage through federal exchanges could lose their tax credits and, potentially, their health insurance coverage in dozens of states.

More ominously, as the administratively burdensome ACA caps insurers' administrative expenses while requiring benefits to be uncapped, major medical plans across the country are now experiencing significant rate increases this renewal season. These mandated regulations are expected to result in unsustainable pressure on private major medical plans operating outside of government-subsidized exchanges. The certainty of unacceptable rate increases will force many companies to relinquish their group plans and allow their employees to obtain affordable (and potentially subsidized) coverage at exchanges.

## ACA REQUIREMENTS: A QUICK REFRESHER

All employers (both your organization and your staffing firm) are subject to "employer shared responsibility" (also known as "pay or play") requirements that became effective on January 1, 2015. The requirements apply to all "applicable large employers," defined as those with 100 or more full-time and full-time-equivalent employees in 2014. In 2016 that threshold drops to employers with more than 50 such employees during 2015, thus significantly expanding the number of affected firms.

Employers are ACA compliant if they elect to "pay" the tax penalty and not offer their employees minimum essential coverage or minimum value coverage that meets the minimum standards of the ACA. In 2016 these large employers will be subject to a non–tax-deductible excise tax if at least one full-time employee qualifies for subsidized coverage from a public health insurance exchange. Under what is termed the "pay option," employers that do not offer minimum essential coverage (MEC) to at least 95% (up from 70% in 2015) of full-time employees and their dependent children under age 26 will be assessed a monthly excise tax of up to $2,000 annually, multiplied by the number of the employer's full-time employees (excluding the first 80).

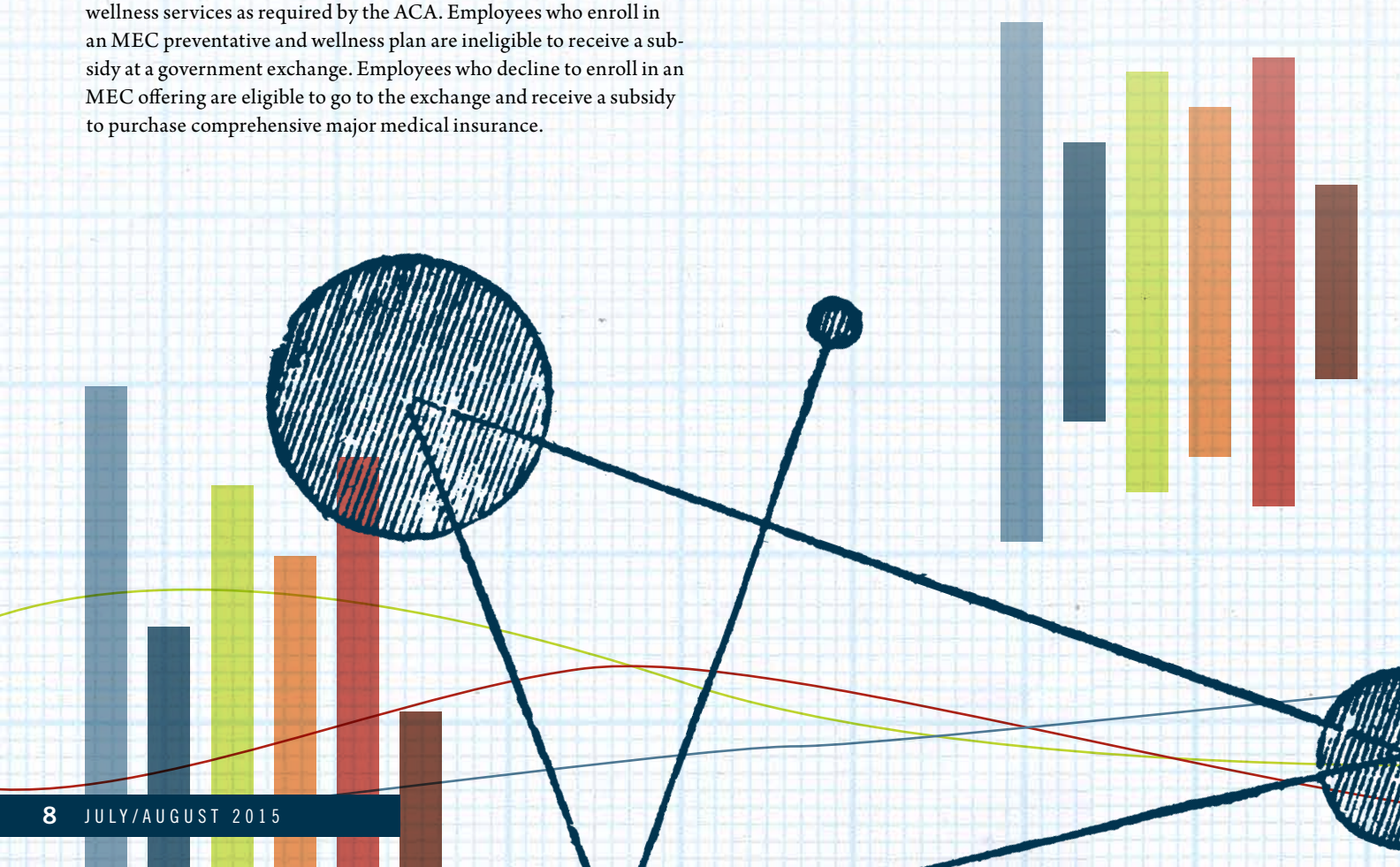
Employers are also ACA compliant if they "play" by offering an employee-paid minimum essential coverage (MEC) plan, which is an ACA-compliant, ERISA-qualified, employer-sponsored plan covering 63 preventive and wellness services. Completely voluntary with no employer contribution required, self-funded MEC plans eliminate the $2,000 (A) tax, but leave open the possibility of the $3,000 (B) tax being assessed for full-time temporary associates who apply for and receive a federal subsidy. Covered services may include screening for medical conditions, counseling, vaccinations for children, and certain supplements; some MEC plans pay 100% of preventive and wellness services as required by the ACA. Employees who enroll in an MEC preventative and wellness plan are ineligible to receive a subsidy at a government exchange. Employees who decline to enroll in an MEC offering are eligible to go to the exchange and receive a subsidy to purchase comprehensive major medical insurance.

Lastly, employers are also ACA compliant if they "play" by offering a minimum value (MV) plan. Minimum value is defined as major medical insurance that achieves an actuarial value of at least 60%. An MV plan must include the 63 ERISA-qualified preventive and wellness services constituting MEC, as well as unlimited benefits for inpatient and outpatient services, including services by physicians and mid-level practitioners, hospital and emergency visits, pharmacy items, and laboratory and imaging tests.

In 2016 MV plans *must* include full in-patient hospitalization coverage. These benefits must have no annual or lifetime maximum. (First-generation MV plans that initially met the 60% actuarial value requirement without inpatient benefits are grandfathered for 2015. At the end of 2014 such plans were deemed as no longer meeting minimum value requirements.) An MV plan must also be affordable to the employee, with the ACA stipulating that the employee portion of the cost of an MV plan cannot exceed 9.5% of his or her income (thus leaving the employer responsible for the majority of the plan cost).

Offering an MV plan eliminates both the employer mandated $2,000 (A) tax and the $3,000 (B) tax. Companies that offer an MV plan render their employees ineligible to receive a subsidy at a government exchange, whether or not the employees enroll in the employer-sponsored MV plan. Plans purchased at the exchanges with subsidies can cost an employee as little as 2% of his or her income. Subsidies for family coverage purchased at the exchange can be significant.

Whether they "pay" or "play," companies have a *huge* financial stake in strategically deciding how they will ensure ACA compliance, provide coverage options to valued employees, and still manage the cost to their organization.



## THE COMPLEXITIES OF ADMINISTRATION AND REPORTING

For many organizations and their staffing firms, the handling of enrollment, administration, and reporting presents the greatest difficulties in managing an ACA-compliant program. The reporting challenge for a staffing firm is real: with an average annual employee turnover rate of 400%, a staffing firm has four times the number of employees to track and report on in a 12-month period than a non-staffing company of equal size. With crushing IRS penalties for noncompliance, the staffing company must engage competent service providers to assist in managing data required by the ACA.

Into this breach have stepped such organizations as Equifax and Insurance Applications Group, which have introduced new technologies to streamline enrollment, simplify look-back measurements, and facilitate essential reporting needed to ensure ACA compliance and avoid penalties. The best of these solutions provide a suite of capabilities that streamline and simplify administration and reporting for firms. Such capabilities may include cost-evaluation tools, variable-hour estimators, administrative tools, employee portals, enrollment engines to manage acceptances and declines, comprehensive reporting capabilities, and even an "audit log" to map processes, integrate systems, and document ACA compliance.

## NEW BENEFIT PLAN OPTIONS EMERGING

Major national companies have stepped forward with enhancements to such existing product offerings as fixed indemnity plans, MEC wellness and preventive plans, and MV plans that, in varying combinations, may provide compliance and cost control as well. Yet as companies begin to examine their benefit offerings for 2016 to ensure ACA compliance and cost control and to provide coverage options to workers—and as the deadlines for 2016 renewals rapidly approach—exciting new benefit plan options are emerging. Among the most exciting new developments are bronze-level MV plans that are fully ACA-compliant, eliminate both employer (A) and (B) taxes, and include full in-patient hospitalization coverage.

## THE IMPORTANCE OF OFFERING A FIXED-INDEMNITY PLAN WITH YOUR ACA OFFERING

Fixed-indemnity plans have long been a staple of the staffing industry as a way to help employees who may be unable to afford the high premiums, deductibles, and copays of traditional major medical insurance plans. The best such plans feature no deductibles, no copays, and no clauses that place limits based on preexisting conditions; provide coverage for doctor office visits and prescriptions; and are designed to cover the majority of an average employee's day-to-day medical expenses.

Such plans are designated "excepted" benefits, do *not* affect an employee's ability to receive ACA subsidies, and do not constitute minimum essential or minimum value coverage. They do, however, play a very important role in the new world of the ACA and the future of employer-sponsored benefit plans. These plans provide day-one coverage of basic healthcare needs, filling the gaps of high-deductible and high-out-of-pocket plans obtained from exchanges or an employer.

## SERVICE MAKES A DIFFERENCE

In late 2014, in an effort to avoid ACA penalties, thousands of organizations waited until the eleventh hour to select plans, resulting in an unprecedented surge of implementations in extremely compressed periods. Reflecting on their experiences during that time, smart employers are considering benefits providers who have added support staff and expanded training to answer questions and process claims. These employers are also asking tough questions about how to judge the service delivery of benefits providers.

As you consider your plans, inquire about what service metrics a provider monitors and how it has performed on those metrics. As key indicators of the provider's offerings, look for positive trends in such areas as rate of first-call resolution of an employee's inquiry, average speed to answer calls, percentage of claims processed within 14 days, and growth rate in total calls received. If your benefits partner will not or can not provide such figures (or doesn't monitor such critical metrics at all), consider expanding your search until you find a partner who can give you this information.

Striking the right balance between providing acceptable and attractive benefit coverage options while controlling costs—and ensuring ACA compliance—will not be easy in 2016, but solutions are emerging. As you consider changes to your health and benefit plans, contemplate ever-shifting rules and regulations, and prepare for expanded reporting requirements, tailor your strategy wisely. Now more than ever, it's critical to partner with staffing providers that understand the staffing industry and the regulatory environment, and have a documented track record of performance. ■

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