An Overview of the Individual Mandate under the Patient Protection and Affordable Care Act

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On January 1, 2014, a number of provisions of the Patient Protection and Affordable Care Act ("PPACA" or the "Act") become effective. One of the most controversial of these provisions is the "individual mandate," which requires all Americans to purchase health insurance or face a tax penalty.

Under the Section 1501 of the PPACA, an individual must maintain "minimum coverage." Being covered under an employer's insurance plan, Medicare, Medicaid, the Children's Health Insurance Program, a number of veteran's insurance plans, a grandfathered health plan, or a plan purchased from a state or federally-run insurance marketplace known as an "Exchange" will satisfy this requirement. However, there are certain exemptions to the mandate: (1) members of religious groups that are opposed to accepting the benefits of a health insurance plan, (2) undocumented immigrants; (3) incarcerated individuals; (4) members of Native American tribes, (5) those with annual family incomes below the threshold for filing a tax return (in 2013, $10,000 for an individual, $20,000 for a family); and (6) those who would pay more than 8% of their annual income for insurance coverage, are not subject to the individual mandate.

If you do not fall into one of these categories and you do not have adequate coverage under the Act, a tax penalty will be imposed. This penalty increases over time. As set forth by Section 5000A of the Act, for tax year 2014, the penalty is the greater of 1.0% of annual family income or $95 per adult and $47.50 per child (up to $285 for a family). For tax year 2015, the penalty is the greater of 2.0% of annual family income or $325 per adult and $162.50 per child (up to $975 for a family). For tax year 2016, the penalty is the greater of 2.5% of annual family income or $695 per adult and $347.50 per child (up to $2,085 for a family).

The PPACA also provides subsidies in the form of tax credits to low- and moderate-income individuals and families who purchase health insurance through an Exchange because adequate coverage is not offered through an employer. To qualify for such a subsidy, your annual household income must be between 100% and 400% of the federal poverty level. The subsidies are provided on a "scale" based on annual household income—for example, those earning up to 133% of the federal poverty level will be subsidized so that insurance costs account for 2% of gross annual income, while those earning 300-400% of the federal poverty level will be subsidized so that insurance costs account for 9.5% of annual income. These provisions are established in Section 1401 of the Act and subsequent regulations passed by the IRS.

While the PPACA allows states to set up their own Exchanges, only fourteen states (including New York) and the District of Columbia have opted to do so. The federal government operates the Exchanges in those states that do not have their own (in some states, there are state-federal partnerships). Because the language of Section 1401 of the PPACA suggests that only those purchasing from state-run Exchanges are eligible for subsidies, an IRS rule that states that the tax credits are available to anyone purchasing insurance from any Exchange has been a source of debate and is the subject of several lawsuits currently pending in federal court.

The individual mandate has been subject to widespread scrutiny and, as it is implemented, will likely be the topic of various lawsuits and challenges, some of which could impact the entire health care system.

If your institution has questions or concerns about this topic and you would like further information, please email James G. Ryan at jryan@cullenanddykman.com or call him at 516-357-3750. This article was written with Ariel Ronneburger, an associate at the firm.