

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

# The Affordable Care Act: Where Are We Now and What Lies Ahead?

Alden Bianchi, Esq.  
Member  
Mintz Levin Cohn Ferris Glovsky & Popeo PC  
*mintz.com*

James A. Essey, CSP  
President and CEO  
The TemPositions Group of Cos.  
*tempositions.com*

Edward Lenz, Esq.  
Senior Counsel  
American Staffing Association  
*americanstaffing.net*

Thursday, Oct. 29  
9–10:45 a.m.





American Staffing Association

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## Agenda

- 2016 health insurance plan options
  - Play or pay?
  - MV v. MEC?
- Who is full-time
  - Variable hour
- Charging for ACA costs
- Key employer reporting issues



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## Antitrust Statement

The poll and survey results presented in today's program address various ACA compliance issues. The purpose is to provide general information regarding staffing industry compliance plans. The results are aggregated responses from representatives of a highly diverse group of staffing firms. For that reason, and to avoid potential antitrust issues, you should rely solely on your own independent business judgment regarding the applicability and relevance of the poll and survey results to your firms.



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## 2016 Health Insurance Plan Options

### Play or Pay Factors

- Large employer = 50 or more FT plus FTE
- To avoid "A" penalty on all FT employees, MEC must be offered to at least 95% of FT employees
- Penalty carve-out drops from 80 to 30
- 2016 A & B taxes will rise (currently \$2,080 and \$3,120)
- 50-99 employers in 2014 with noncalendar-year plans are eligible for transition relief from penalties until plan renewal in 2016



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## MV Insurance Primer

- Fully Insured
  - Program is run by a health insurance company
  - Uses the insurer's networks
  - Premiums you pay are the max you will pay in a year
  - Risk is entirely borne by insurance company
  - If there are more claims than the premium dollars collected, the insurance company may increase rates upon renewal



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## MV Insurance Primer

- **Self Insured**

- Your company offers the program
- You hire a TPA to administer it through various networks
- Claims are paid by TPA using the premium dollars
- You buy stop-loss coverage to insure excess claims
- Some claims could exceed stop-loss coverage
- If claims are less than premiums paid in, you have a surplus



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## MV Insurance Primer

- **High-deductible plans**

- Typically, no payments made until insureds reach the high deductible limit of \$6,450 single; \$12,900

- **Metal plans—bronze, silver, gold vary by**

- Deductibles, i.e. \$2K/\$5K; \$1K/3K, etc.
- % of charge covered 60%-70%-80%
- How charge is approved—reasonable and customary vs. reference based pricing
- Office and test co-pay amounts—\$25/50, etc.
- Drug co-pays



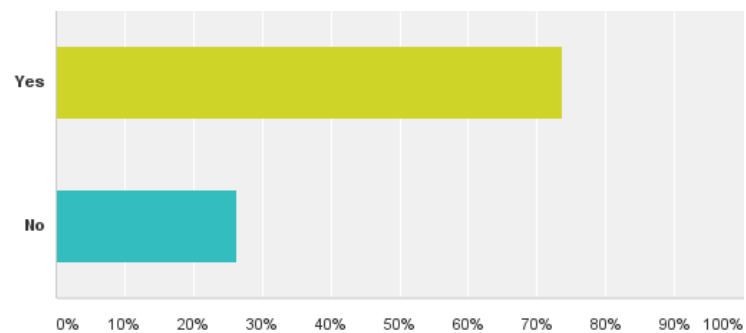
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# ASA Board of Directors Survey on Plan Offerings



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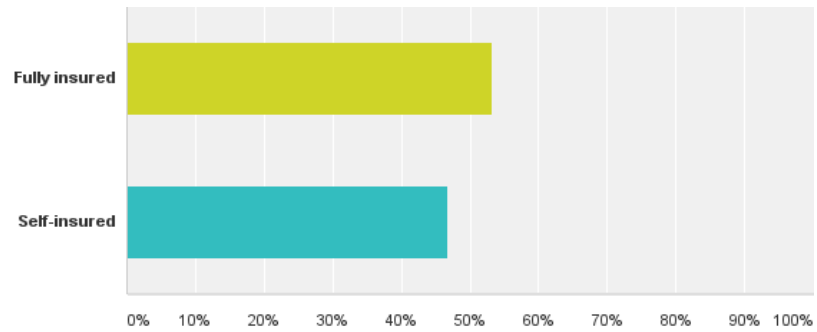
Do you currently offer to your temporary employees a minimum value plan (including hospitalization) or have a plan ready to offer by Jan. 1, 2016?





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## Is the minimum value plan fully insured or self-insured?



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## Type of Coverage

- **Fully Insured**
  - 86% HDP
  - 29% standard in-network plan
- **Self-Insured**
  - 86% HDP
  - 43% standard in-network plan
  - 29% out of network plan



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## Affordability

- 86% yes
- 100% make only one plan affordable if offer more than one
- 86% subsidize single only



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## Participation Requirements

- Fully insured: 57% yes
- Self insured: 71% no





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## Total Monthly Premium— Fully Insured

- HDP
  - Single: \$190; \$272; \$301; \$342; \$557; \$570
  - Employee and spouse: \$294; \$504; \$598; \$786; \$1,141, \$1,171
  - Family: \$399; \$710; \$840; \$1,049; \$1,693; \$1,768
- In network only
  - Single: \$585; \$646
  - Employee and spouse: \$1,171; \$1,294
  - Family: \$1,791; \$1,979



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## Total Monthly Premium— Fully Insured

- In and out of network plan
  - Single
  - Employee and spouse
  - Family



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## Total Monthly Premium— Self-Insured

- HDP
  - Single: \$346; \$372; \$453; \$573
  - Employee and Spouse: \$779; \$783; \$907
  - Family: \$573; \$1,172; \$1405
- In network only
  - Single
  - Employee and spouse
  - Family



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## Total Monthly Premium— Self-Insured

- In and out of network plan:
  - Single: \$208; \$392
  - Employee and spouse: \$498; \$882
  - Family: \$671; \$1274



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## Market Conditions and Considerations

- Both fully and self-insured available
- Check for
  - Participation and waiver requirements
  - Stop-loss carrier coverage (MV; MEC?)
  - TPA track record
  - Required add-ons (MEC, indemnity, etc.)



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## Poll Instructions

### To participate:

- Text sw15 to 22333 just once to join.
- Respond online at [pollev.com/sw15](http://pollev.com/sw15)

The polling system is NOT case sensitive



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## Poll Warmup

Did you have coffee this morning?

- a. Yes
- b. No



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## Poll Question 1

Assuming you are a large employer in 2016, do you plan to “play” (offer MEC to at least 95% of full-time employees) or “pay” (offer no coverage)?

- a. Play
- b. Pay



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## Poll Question 1a

If you are not a large employer in 2016, do you plan to offer health insurance coverage to your temporary and contract employees anyway?

- a. Yes
- b. No



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## 2016 Health Insurance Plan Considerations

- Cost of MV premiums v. cost of “B” tax
- 2015 employer notices regarding employees getting subsidies will not be issued by the 37 exchanges using *healthcare.gov*
- 2016 notices won’t be issued until next spring at the earliest
- Despite absence of notices, “B” penalties will still be assessed for 2015



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## Poll Questions—Coverage Options

The following questions (2-6) regarding coverage options relate solely to your temporary and contract employees, not your internal staff



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## Poll Question 2

If you plan to offer coverage in 2016, will you primarily offer only MEC and pay the “B” penalties?

- a. Yes
- b. No



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## Poll Question 3

If you offer MV coverage, do you plan to

- a. Offer only to full-time employees
- b. Offer to *all* employees regardless of full-time status



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## Poll Question 4

If you offer MV coverage, do you plan to make it affordable to

- a. All employees
- b. Most employees
- c. No employees



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## Poll Question 5

If you offer MEC, do you plan to

- Offer only to full-time employees
- Offer to *all* employees regardless of full-time status



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## Poll Question 6

If you offer a MEC plan, will it be:

- a. 100% employee paid
- b. 100% employer paid
- c. Both employee and employer paid





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## Poll Question 7

Do you plan to use a PEO to handle your payroll and offer health insurance coverage in 2016?

- a. Yes
- b. No



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## Determining Full-Time Status

- Penalties are assessed *only* on full-time employees (i.e., average at least 130 hours per month)
- Staffing firms can take up to 12 months to determine FT status of part-time, seasonal, and variable-hour employees



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## Variable-Hour Definition

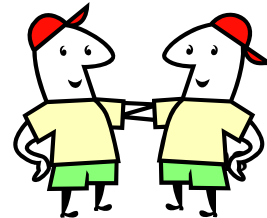
- Employer can't reasonably determine on employee's start date whether the employee will work full-time during the initial measurement period because hours are variable or uncertain
- Mere expectation that employee will not work 12 months does not make the employee variable hour



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## Variable-Hour Factors

New employees can be classified variable hour based on factors applicable to other employees in "same" position (e.g., skill code, industry segment, or client)





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## Temporary Staffing Factors

- Can employees can reject assignments?
- Do they typically have periods when no assignments are available?
- Do assignments typically differ in length?
- Are assignments typically less than 13 weeks?



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## Temporary Staffing Factors

- Uncertain assignment lengths and breaks
- Varying weekly hours
- Assignments subject to client renewal
- Employee absences, peak workloads (not staffing-specific)



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## Poll Question 8

Do you plan to classify some or all of your temporary and contract employees as variable hour?

- a. Yes
- b. No



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## Poll Question 9

What percentage of your temporary and contract employees do you expect to classify as variable hour?

- a. Less than 10%
- b. 11-25%
- c. 26-50%
- d. 51-75%
- e. Over 75%



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## Temporary-to-Permanent

### Can they be variable hour?

- Arguably yes, if factors are met (e.g., employees typically work on multiple assignments, with gaps in between, before placement)
- No, if they typically are placed within the initial temp period
- Must placements be in the same position (i.e., job category) or is “temporary-to-permanent” itself a “position”?



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## Penalties During Temporary Period

- No assessment in first three months if employee goes permanent within that period—but staffing firm must have coverage that *could have been offered* had the employee worked beyond three months
- If employee works beyond three months, coverage must be offered and effective by the 91st day—unless employee was properly classified as variable hour at the start
- To avoid “B” penalty in first three months, coverage must be MV



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# Charging ACA Costs



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## Types of ACA Costs

- General and administrative costs relating to compliance—e.g., tracking and reporting employee hours, executive and managerial time, added HR support, outside consultants, etc.
- Cost of health insurance and/or employer tax assessments



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## ACA Cost Recovery Options

- Don't charge ACA costs to clients
- Spread costs to all clients in bill rate
- Charge ACA costs as separate line item
- Make additional surcharge for employees enrolled in your health plan



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## Charging ACA Costs: Looking Ahead to 2016



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## Poll Question 10 (ACA costs)

How much do you estimate your ACA costs will increase in 2016 compared with 2015?

- a. 0–2%
- b. 3–5%
- c. 6–10%
- d. More than 10%



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## Poll Question 11

To the extent you expect your ACA-related costs to increase in 2016, do you plan to recover such costs from clients?

- a. Yes—recover all
- b. Yes—recover some
- c. No—we will absorb any increased costs





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## Poll Question 12

If you plan to recover ACA costs, will you generally

- a. *Spread costs across all clients*, unless client asks for separate additional charge for employees that enroll in your insurance health plan per the special rule relating to common-law employer issue
- b. *Charge all ACA costs as separate line item*, unless client requests separate charge for employees enrolled in your plan
- c. Charge all clients an additional amount for employees who enroll in your health insurance plan *whether or not client raises common-law employer issue*



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## Reporting Full-Time Employees

Penalties can be assessed *only* on “full-time” employees

- Employees are not reported as full time in any month they are in a “nonassessment” period, *even if they worked full-time hours in that month*
- “Nonassessment period” includes full-time employees in a waiting period (up to three months) and part-time or variable-hour employees in their initial measurement period (up to 12 months)



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## Employer Reporting—"A" Penalty

### IRS Form 1094-C, Part III

- Column (b): for each month enter "Full-Time Employee Count"
- Column (c): for each month enter "*Total* Employee Count"

Employees in "limited nonassessment periods" are not reported as full-time in Column (b), and thus are not counted for purposes of "A" penalty. They would, however, appear in the total headcount in Column (c).



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## Employer Reporting—"B" Penalty

### IRS Form 1095-C, Part II Lines 14 and 16

- Line 14: enter code indicating whether employee was offered coverage, the type of coverage, to whom it was offered, and whether it was MV and affordable
- Line 16: enter code indicating "excuse" for not offering coverage—e.g., *Code 2D* for employees in limited nonassessment periods



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## Poll Question 13

How do you plan to handle ACA reporting?

- a. Fill out forms myself based on my own record keeping
- b. Fill out forms myself based on data generated by applicant tracking system
- c. Hire supplier to fill out forms based on my record keeping
- d. Hire supplier to fill out forms based on data generated by applicant tracking system (same or other supplier)



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## When Will 2015 Penalties Be Assessed?

2015 assessments will be issued after employers file their 2015 Form 1095-C reports in March 2016—employers will have opportunity to challenge before final assessments are made



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# Questions?



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Thank you for attending this  
Staffing World 2015 workshop



Alden J. Bianchi, Esq.  
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