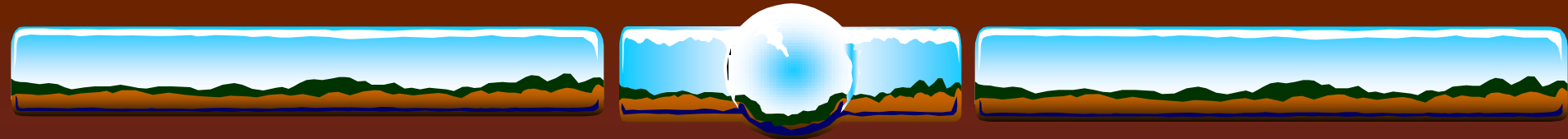



ACA Waivers

Thomas J. Hendrix, PhD



❖ What does a waiver any waiver do?

- ❖ Instead of everybody being required to follow a law, in this case the ACA, some individuals or groups are treated differently. They are typically the individual, organization or firm with the most political muscle and frequently have employed lobbyists.
- ❖ And Power is transferred from the individual or group to a bureaucrat. . . . Who then chooses the winners and losers



7 types of “Obamacare” waivers and a giveaway

- ❖ 1. MLR waiver for mini-med health insurance plans
- ❖ 2. Annual limit waiver
- ❖ 3. Employer mandate waiver (as of 7/2013)
- ❖ 4. Individual mandate waiver
- ❖ 5. MLR waiver for states
- ❖ 6. State innovation waiver
- ❖ 7. ACO anti-trust waiver

❖ And there are at least 1800 entities with waivers to date.



Medical Loss Ratio (MLR) Waiver

- ❖ The law states that at least 80% of premiums must be spent on care
- ❖ Problem – High turnover jobs (like McDonald's) are constantly “churning” their labor force and the exit followed by an entrance into their pool has an administrative cost for their mini med plans.
- ❖ HHS ruled that if the MLR could be shown to either decrease coverage or increase cost, waivers would be granted.



MLR Waiver

- ❖ So Waivers were granted and the MLR waiver will not be granted for any new plan offered in 2014.
- ❖ And what did companies like McDonalds do?
 - ❖ They got their policies in place for the last few years and if they were able to begin a premium contract period before the end of 2013, the waiver would stay with them until it had to be renewed Presumably towards the end of 2014
 - ❖ Coincidentally After the 2014 mid term elections.



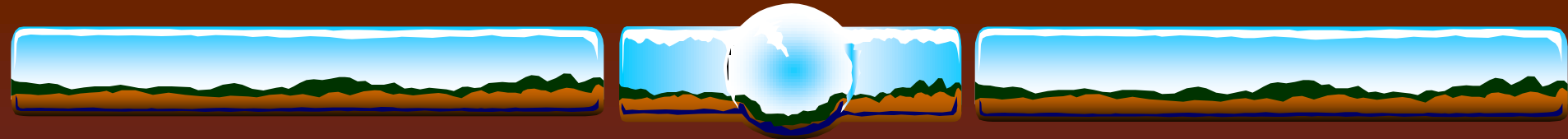
MLR Question

- ❖ If the medical loss ratio is so bad that it will increase costs or decrease coverage for the past 2 years, will it not have the same effect at the end of 2014 when it truly kicks in?



2. Annual limit waivers

- ❖ “Obamacare” there will be no annual or lifetime limits on benefits.
- ❖ The annual limit requirements waiver were issued to protect individuals that were purchasing mini med plans that all had substantial limits on total outlays.
- ❖ Beginning in 2014, no new policy can have a limit on benefits as described above.



- ❖ So Once again, the impact on those getting insurance will come towards the end of 2014
 - ❖ Again Coincidentally after the 2014 midterm elections
- ❖ And what will happen when the waivers expire?
 - ❖ Insurance premiums are based on 2 things: (1) the cost of care and (2) the likelihood of that care happening
 - ❖ And When there are no limits The potential cost goes up And so do premiums After the elections.



Employer mandate waiver

- ❖ 7. In July of 2013, the IRS issued a ruling that they would not enforce the employer mandate for a year. This creates a 1-year waiver for employers to comply. . . . after the election before effects felt?
- ❖ The problem with the mandate for employers
 - ❖ adding the employees working 30 hours or more to their plan and the increasing premiums resulting from the mandated coverage
 - ❖ Employers will change from full time to part time and cut hours under 30 hours per week.
 - ❖ Who gets hurt – employees and their families . . . But many will not now know it until after the 2014 election.



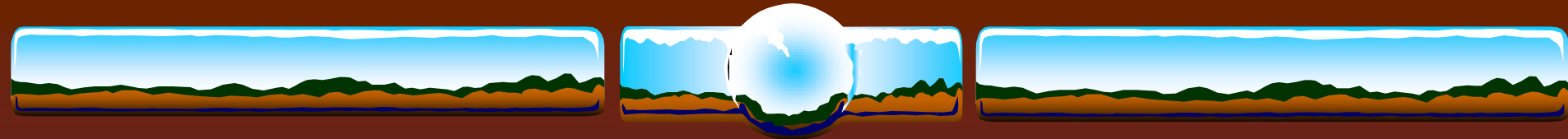
Individual Mandate Waivers

- ❖ Must be in a special group (the “winners”)
 - ❖ Religious objector
 - ❖ Health care sharing ministry
 - ❖ Illegal alien
 - ❖ In jail
 - ❖ The poor
 - ❖ Member of Indian tribe
 - ❖ Suffering a “hardship” – I guess they determine the definition.



Waivers 5, 6

- ❖ 5. MLR Waiver for entire state – does not effect us
 - ❖ Only a few granted (NC, GA, ME)
- ❖ 6. State Innovation Waiver – this is a catch 22
 - ❖ Must comply with (1) all of the mandated coverage (2) pre-existing, etc, etc, etc
 - ❖ Could only comply with a single payer system – which most same nations are moving away from.



- ❖ 7. ACO anti-trust waiver – Accountable Care Organizations (care for 5000 people) may get anti-trust protection.
 - ❖ Because of the definition (5000 patients), this will only help large hospital systems.
 - ❖ Small groups and insurers will be fair game for fines and jail.
 - ❖ Result – Once again the government gets to pick the winner and the loser.
- ❖ And finally – the giveaway



The Giveaway

- ❖ Early Retiree Reinsurance program
 - ❖ \$5 billion (with a “B”) appropriated for certain employers that pay for retiree health.
 - ❖ Which employers?
 - ❖ State teachers (unionized) . . . State employees (unionized)
- ❖ Which companies? Here are some
 - ❖ Conoco Phillips, GE, GM, BOA, Ford, Hewlett Packard, AT&T, JP Morgan, Citigroup, Verizon, AIG, IBM
 - ❖ The above are 12 of the largest 20 US companies and all are highly unionized
 - ❖ Result – Once again, picking winners (big union based enterprises) and the losers are everyone else



A FEW MORE FACTS

- ❖ **1,396** plans, including Health Reimbursement Arrangements, received waivers in the initial application period and extended them through 2014
- ❖ **229** additional plans applied and were granted waivers through 2014
- ❖ **94%** of the plans that applied for the initial waivers also needed the extension
- ❖ **3,914,356** is the total number of individuals covered by plans and HRAs that are exempt from Obamacare's mandates through 2014
- ❖ Some other exemptions – UFCW Allied Trade Health & Welfare Trust, IBEW No.915, Asbestos Workers Local 53 Welfare Fund, Plumbers & Pipefitters Local 123, Welfare Fund, UFCW Local 227, UFCW Maximus Local 455, Local 25 SEIU, UFCW Local 1262, Local 802 Musicians Health Fund, Local 17 Hospitality Benefit Fund, International Union of Painters and Allied Trades (IUPAT), Transport Workers, UFT Welfare Fund (United Federation of Teachers)
- ❖ And – The President said these waivers were necessary to “protect coverage” for millions of Americans. What about the rest of us?



Conclusion

- ❖ The discretion of the ACA has been used to unlawfully change a law (employer mandate), pick winners and losers and finally, they are trying to delay the ability of voters to actually see the destruction that is coming until after the 2014 midterm elections.
- ❖ EQUAL JUSTICE UNDER THE LAWREALLY?