



## Employer Mandate Enforcement

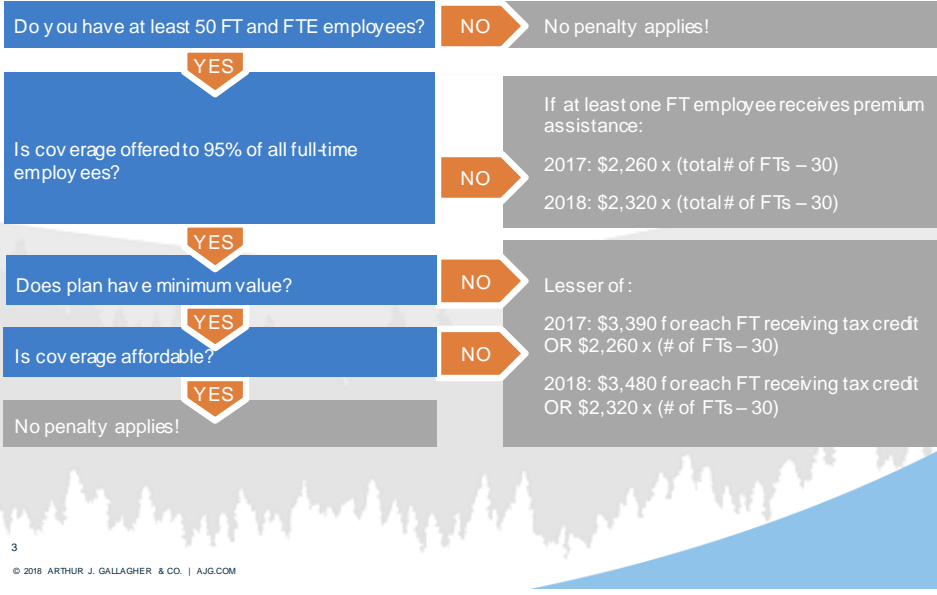


- IRS has been assessing potential employer mandate penalties for 2015
  - For failure to offer coverage to enough full-time employees
- Many proposed penalties range from \$100,000 to \$10 million
- IRS expected to begin issuing additional letters
  - For failing to offer affordable, minimum value coverage to specific full-time employees
  - For later years

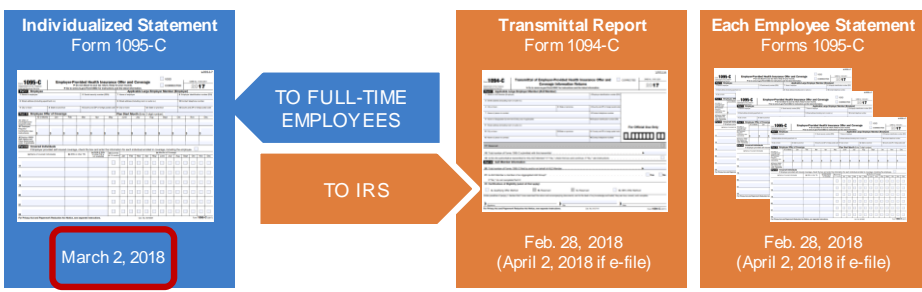




## Employer Mandate



## Large Employer Reporting



**Extended!**



## Follow a Map



- To evaluate the accuracy of the IRS's proposed employer mandate penalties
  - Review Letter 226J and other materials provided by the IRS
  - Gather 2015 Forms 1094-C and 1095-C filed with the IRS
  - Compare ESRP Summary Table to Form 1094-C
  - Compare Form 14765, Employee PTC Listing to Forms 1095-C
  - Use Form 14764, ESRP Response to respond



## EEOC and Wellness Plans



- EEOC had issued wellness regulations
  - Differed from HIPAA requirements for wellness programs subject to the ADA and GINA
- Court ruled that EEOC failed to provide a well-reasoned and supported justification
  - Regulations will cease to apply on January 1, 2019
  - May lead to uncertainty, depending on when the EEOC issues revised regulations



## HIPAA Enforcement



- As of December 31, 2017
  - 160,297 HIPAA complaints received by HHS
  - 25,637 cases investigated and resolved
  - \$75,229,182 in penalties imposed by HHS



7  
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## HHS Enforcement



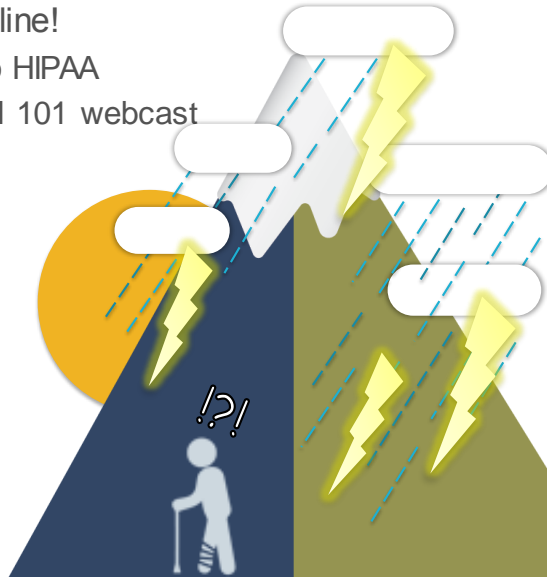
- Recent enforcement settlements include
  - **\$2.5 Million:** Stolen laptop, insufficient risk analysis, inadequate risk management processes, and policies and procedures were in draft form
  - **\$31,000:** No business associate agreement
  - **\$400,000:** Failure to timely conduct risk analysis
  - **\$5.5 Million:** Failed to implement procedures to terminate former employees' access to PHI
  - **\$3.2 Million:** Loss of Blackberry that contained ePHI, failure to implement risk management plans, and failure to use encryption or alternative

8  
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## Choose the Right Trail



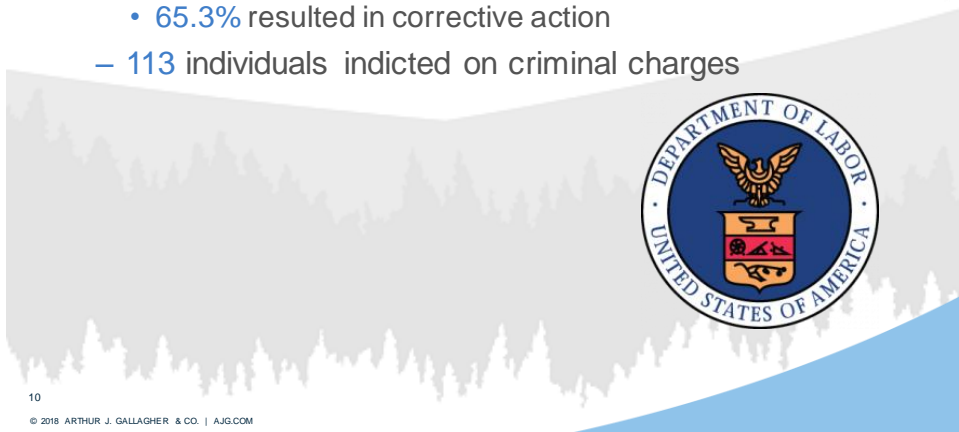
- Don't become a headline!
  - Employer's Guide to HIPAA
  - HIPAA Audit Survival 101 webcast
  - Decision trees



## DOL Investigations



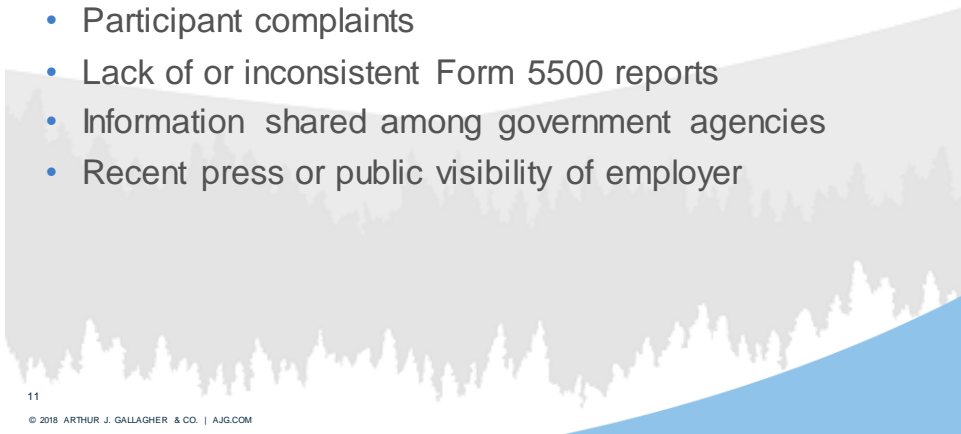
- In fiscal year 2017, the DOL had
  - \$1.1 Billion in total recoveries
  - 1,707 civil investigations closed
    - 65.3% resulted in corrective action
  - 113 individuals indicted on criminal charges





## Sources of Investigations

- Health Benefits Security Project (HBSP)
  - Comprehensive national health enforcement project
  - Includes focus on ACA violations
- Participant complaints
- Lack of or inconsistent Form 5500 reports
- Information shared among government agencies
- Recent press or public visibility of employer



11

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## Pack Essential Items

- The best offense is a good defense!
  - Keep documents current and organized
  - Perform internal reviews
  - Administer plan in accordance with terms
  - Comply with the electronic delivery rules
  - Apply consistent recordkeeping procedures
  - Voluntary correction programs:
    - Voluntary Fiduciary Correction Program (VFCP)
    - Delinquent Filer Voluntary Correction Program (DFVCP)



12

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## Watch Out for Hitchhikers



- Incorrect handling of eligibility can result in unexpected litigation and claims
  - Employees are eligible to participate based on the terms of the plan documents
- Make sure:
  - Have a plan document that:
    - Accurately reflects eligible (and not eligible) employees
    - Clearly defines benefits to be provided and limitations
  - Providing SPDs to participants
  - Carrier or stop loss carrier approves any extension of coverage that is not in plan document or insurance policy



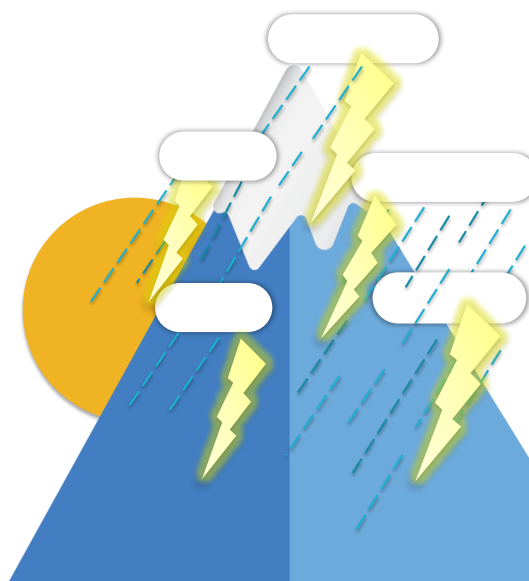
13

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## Check the Weather



- Preparing for Disasters
  - Plan in advance
  - Temporary contact list
  - Remote access
  - Continuation of health coverage & special enrollments
  - FMLA
  - EAP reminders
  - Retirement hardship loans
  - Leave-based donation programs



14

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## Tax Reform



### Tax Cuts and Jobs Act

- Elimination of:
  - Individual mandate – 2019
  - Employer deduction for certain transportation benefits – Beginning in 2018
  - Income exclusion for qualified bicycle commuting reimbursement – 2018-2025

No legislative changes to:

- ✓ Employer Mandate
- ✓ Forms 1094-C and 1095-C Reporting
- ✓ Dependent Care FSAs
- ✓ Employer Provided Educational Assistance

### Continuing Resolution – Jan 22, 2018

- Cadillac Tax delayed until 2022
- Health Insurer tax suspended in 2019



## 2018 Limits



	2017	2018
<b>Out-of-Pocket (OOP) Maximum (single/family)</b>	\$7,150 / \$14,300	\$7,350 / \$14,700
<b>FSA Maximum</b>	\$2,600	\$2,650
<b>Qualified HSA HDHP</b>		
Minimum deductible	\$1,300 / \$2,600	\$1,350 / \$2,700
Maximum OOP	\$6,550 / \$13,100	\$6,650 / \$13,300
Maximum HSA contribution	\$3,400 / \$6,750	\$3,450 / <b>\$6,850</b>
Catch-up HSA contribution	\$1,000	\$1,000
<b>Transit</b>		
Mass transit/van pooling	\$255 per month	\$260 per month*
Parking	\$255 per month	\$260 per month*
Bicycle commuter	\$20 per month	<b>\$0</b>

**PCORI Fee**  
\$2.39 for  
PYE 10/1/17 – 9/30/18  
(increased from \$2.26)

**Updated!**

\* No tax deduction for employers, but employee can use pre-tax income



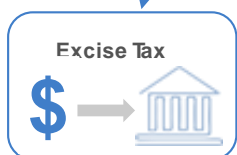


## Cadillac Tax

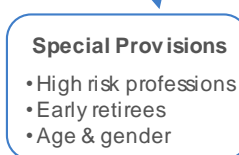


**Delayed  
until 2022!**

COBRA Rate  $\geq$  \$10,200 for self-only or  
\$27,500 for family (other than self-only)



= 40% of plan value that  
exceeds threshold



17

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## Bipartisan Approach



### Senate HELP Committee

- Bipartisan approach to stabilize the insurance markets
- Considerations:
  - Fund cost-sharing reduction payments
  - Expand “copper plans” to those 30 and over
  - Grant states more flexibility to approve health insurance plans and prices in their state
  - Allow states to offer plans with varied benefits if its value is similar to plans in the Marketplace

18

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## Agency Actions



### Executive Orders

- President Trump signed Executive Orders directing the agencies to explore ways to:
  - Expand rules for Association Health Plans
    - DOL issued proposed rules
    - Would make it easier for unrelated employers to band together to purchase coverage
  - Allow employees to use HRA funds for individual policies
  - Increase the availability of short-term limited duration health insurance (STLDI)

19

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## Stay on Route



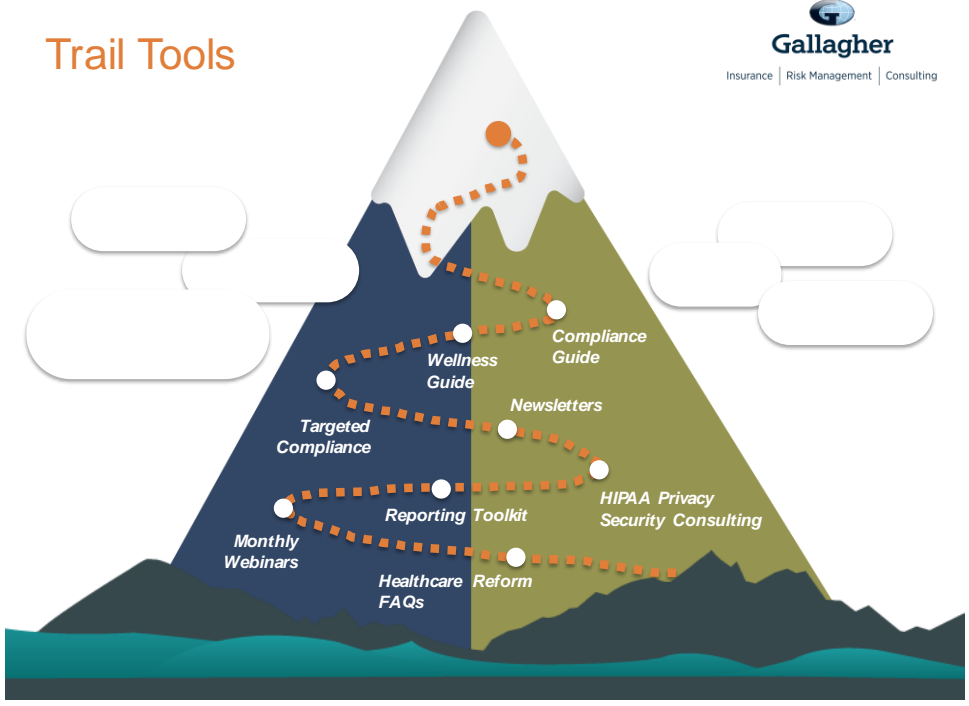
- Plans should be well-organized to avoid potential problems.
  - Take methodical approach to dealing with government agencies
  - Be cautious when changing wellness programs
  - Conduct analysis for compliance with HIPAA
  - Keep copies of important documents in a safe place
  - Update eligibility provisions
  - Be alert to guidance for disaster relief

20

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Trail Tools



Additional Resources



[ajghealthcarereform.com](http://ajghealthcarereform.com)

Please join us on April 19!



Insurance | Risk Management | Consulting

### Destination 2020: Envision a Thriving Workforce

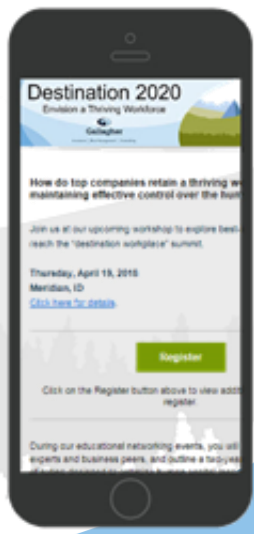
Register: [gbs.ajg.com/2020](http://gbs.ajg.com/2020)

During this educational networking event, you will hear from industry experts and business peers, and outline a two-year forward-looking plan of action designed to optimize human capital management at your organization.

We will include specific examples of innovative solutions and insights from best-in-class organizations, featuring:

- Jeff Taylor, Senior Vice President, Chief Financial Officer, St. Luke's Health Systems
- Josh Stuart, Director of Human Resources, Farm Bureau Mutual Insurance Company of Idaho

*This program has applied for 2.5 SHRM Professional Development credits.*



**Questions? We're here to help!**

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