

## The ACA's Individual and Employer Mandates

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### Background Materials:

- Materials Explaining the Individual Mandate
  - [Statutory Framework](#)
  - [Kaiser Breakdown of NFIB v. Sibelius](#)
  - [BCBS of RI Summary](#)
  - [Kaiser Family Foundation Flowchart](#)
  - [CRS Report](#)
  - [NPR Story on Sharing Ministries](#)
- Materials Explaining the Employer Mandate
  - [Statutory Framework](#)
  - [Kaiser Family Foundation Flowchart](#)
  - [U.S. DOL Health Reform Links](#)
  - [CPA/Consulting Firm Analysis](#)
  - [Health Affairs Post on Proposed IRS Rules](#)
  - [Article on Judicial Watch's legal challenge to Employer Mandate Delay](#)
  - [NFIB Employer Mandate Cribsheet](#)
  - [CRS Report](#)
- For the Wonks Among Us
  - [U.S. Healthcare cost curve already bent](#)
  - [Comparative healthcare spending vs. outcomes](#)
  - [Jones Day Overview](#)
  - [Forbes on Mandates as an Answer to the Free Rider Problem and an Alternative to Single-Payer](#)

### Slide Content Outlines

- [slide 1] Time to Eat Your Vegetables . . . or Pay the Price
  - We'll cover
    - The "Broccoli" Mandate for Individual Persons
    - "Play-or-Pay" Mandate for Large Corporate Persons
- [slide 2] The Individual Mandate
  - What the Wonks Said About Why Individuals Should Pay for Insurance
    - Heritage Foundation policy alternative to Single Payer
    - Free-Rider problem drives up costs, increases the risk of the pool by keeping the young and healthy out.
- [slide 3] The Individual Mandate

- What the Statute Says

[Insert Relevant Statutory Text here – edit from link above]

- [slide 4] The Individual Mandate (2)
  - What the Court Said (quick rehashing of Blummy’s presentation)
    - Congress doesn’t have the power under the Commerce Clause to make you buy insurance
    - But Congress does have the power to tax you if you don’t.
- [slide 5] The Individual Mandate (3)
  - How it Works
    - [insert scaled-down version of Kaiser Flowchart]
- [slide 6] The Individual Mandate (4)
  - Who’s Covered and Who Isn’t?
    - If you’re [insert exempt categories from Kaiser chart], YOU’RE OKAY
  - What’s it cost?
    - 2014 = 2015 = 2016 =
    - Aggregate Cost
- [slide 7] The Employer Mandate
  - Origins of Play-or-Play
    - State and Local Employer Mandates
      - Massachusetts
      - NYC
      - SF
    - ERISA Preemption challenges rejected – *Golden Gate Restaurant Ass’n v. City and County of San Francisco*, 9th Cir. 2008, cert. denied.
- [slide 8] The Employer Mandate
  - What the Statute Says
- [slide 9] The Employer Mandate
  - What the Court Said
    - NOTHING. They challenged the Individual Mandate instead. Why?
- [slide 10] The Employer Mandate
  - What the President and the IRS have said
    - Hold your horses until 2015 when we get this thing figured out.
  - What Judicial Watch said
    - You’ve invalidated an entire element of the law with the swipe of a pen.
- [slide 11] The Employer Mandate
  - How it Works
    - KFF Flowchart
  - Do you:

- Have 50+ Full-Time or FTE Employees?
- Provide them Minimum Essential Coverage?
- Then you're OKAY
- [slide 12] Summary and Questions