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## Affordable Care Act Continues to be Fluid

Marilyn R. Schlake

*University of Nebraska-Lincoln*

Carroll S. Welte

*University of Nebraska-Lincoln*

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# CORNHUSKER ECONOMICS

## Affordable Care Act Continues to be Fluid

Market Report	Yr Ago	4 Wks Ago	5/23/14
<b><u>Livestock and Products,</u></b>			
<b><u>Weekly Average</u></b>			
Nebraska Slaughter Steers, 35-65% Choice, Live Weight. . . . .	\$125.32	\$146.67	\$144.53
Nebraska Feeder Steers, Med. & Large Frame, 550-600 lb. . . . .	162.57	+	254.33
Nebraska Feeder Steers, Med. & Large Frame 750-800 lb. . . . .	142.00	+	191.47
Choice Boxed Beef, 600-750 lb. Carcass. . . . .	210.47	231.91	230.48
Western Corn Belt Base Hog Price Carcass, Negotiated. . . . .	90.00	115.42	107.90
Pork Carcass Cutout, 185 lb. Carcass, 51-52% Lean. . . . .	93.39	116.27	113.89
Slaughter Lambs, Ch. & Pr., Heavy, Woolled, South Dakota, Direct. . . . .	104.75	146.00	147.50
National Carcass Lamb Cutout, FOB. . . . .	285.60	374.46	364.24
<b><u>Crops,</u></b>			
<b><u>Daily Spot Prices</u></b>			
Wheat, No. 1, H.W. Imperial, bu. . . . .	7.03	7.11	6.75
Corn, No. 2, Yellow Nebraska City, bu. . . . .	7.02	4.85	4.60
Soybeans, No. 1, Yellow Nebraska City, bu. . . . .	14.61	14.78	15.21
Grain Sorghum, No. 2, Yellow Dorchester, cwt. . . . .	12.27	8.52	7.91
Oats, No. 2, Heavy Minneapolis, MN , bu. . . . .	3.85	4.48	3.95
<b><u>Feed</u></b>			
Alfalfa, Large Square Bales, Good to Premium, RFV 160-185 Northeast Nebraska, ton. . . . .	+	190.00	160.00
Alfalfa, Large Rounds, Good Platte Valley, ton. . . . .	225.00	115.00	120.00
Grass Hay, Large Rounds, Good Nebraska, ton. . . . .	+	102.50	105.00
Dried Distillers Grains, 10% Moisture, Nebraska Average. . . . .	220.50	235.00	204.50
Wet Distillers Grains, 65-70% Moisture, Nebraska Average. . . . .	90.50	68.00	62.50
<b>+ No Market</b>			

The Affordable Care Act (ACA) went into effect in 2010 and continues to rollout significant sections of the law that affect individuals and businesses alike. Some ACA requirements are partially implemented and others are still undergoing scrutiny and policy changes. For instance, effective January 1, 2014 all individuals, including children, are required to have health insurance coverage or face a penalty for non-compliance. Although this law is now in effect, there have been administrative changes that allow for variances in the implementation of the law. Similarly, administrative regulations continue to be further defined that impact how businesses interact with employees and provide health insurance coverage.

### Individual and Small Business Coverage

As originally enacted, the ACA requires all insurance policies to meet ACA requirements of including ten essential health benefits – ambulatory patient services, emergency services, maternity and newborn care, prescription drugs, preventive and wellness services and chronic disease management, to name a few. Since many individual and small group policies did not meet this requirement, insurers started cancelling policies in the Fall of 2013 for thousands of Nebraskans.

To stem health insurance policy cancellations, President Obama announced on November 14, 2013 a transitional policy that allowed individuals who have ACA noncompliant insurance policies to keep their current policies to October 1, 2014 without ACA enforcement. However, the Nebraska Department of Insurance (NDOI) issued a follow-up ruling on [November 22](#) stating Nebraska insurers needed to comply with the ACA statutory provisions that required all health insurance policies to be ACA compliant on January 1, 2014. The notice also stated that Nebraska insurance law already provided the insurers the option to "engage in an early policy renewal process" for current health policies, if they were renewed on or before December 31, 2013.

Fast forward to March 5, 2014 – President Obama announced a two-year extension to the transitional policy for

individual and small group health plans. The extension allows insurance companies to continue to renew non-compliant ACA policies on or before October 1, 2016. Depending on the policy year, this may extend these non-compliant insurance policies into 2017. Again, the Nebraska Department of Insurance issued a notice on March 24, 2014 that Nebraska will not participate in the transitional policy and all Nebraska-issued policies must comply with the ACA regulations.

However, like the changes in the federal regulatory policy, the Nebraska Department of Insurance issued a notice on April 30, 2014 reversing their previous ruling, based on further statutory clarifications from the federal government. Nebraska insurers issuing individual and small group policies can now follow the federal transitional policy announced by President Obama and delay implementation of ACA compliant policies to October 1, 2017, based on plan anniversary dates. The NDOI notice states, "The Department has determined that companies may offer to policyholders who held plans that were issued prior to January 1, 2014 the option to extend those health insurance plans through October 1, 2016. As before, all other plans issued after January 1, 2014 must be ACA compliant."

The transitional policy also applies to large businesses that currently purchase insurance in the large group market (100 or more employees). On January 1, 2016, these companies will be redefined by section 1304(b) of the Affordable Care Act as small businesses, and will purchase insurance in the small group market. They will have the option of renewing their current policy on or before October 1, 2016 without being considered to be out of compliance in the small group market.

To also cover those individuals who did receive insurance policy cancellations and were unable to obtain health insurance without incurring higher costs, the Department of Health and Human Services issued a Bulletin on December 19, 2013 that provides options for purchasing individual catastrophic coverage for 2014 without incurring penalties. To be eligible, individual policies must meet certain guidelines and a hardship exemption form must be filed with Healthcare.gov. (<http://marketplace.cms.gov/getofficialresources/publications-and-articles/hardship-exemption.pdf>)

### **Internal Revenue Service Determination for Pre-tax Reimbursements**

As a point of clarification, on September 13, 2013 and again on March 13, 2014, the Internal Revenue Service (IRS) issued a Notice (2013-54) and the subsequent Q&A which informs employers that they are prohibited through the ACA from reimbursing employees on a pre-tax basis for premiums the employees pay for individual health insurance policies, either in or outside the individual exchange/marketplace. The IRS warns that "such an arrangement fails to satisfy the market reforms and may be subject to a \$100/day excise tax per applicable employee under section 4980D of the Internal Revenue Code." However, the IRS Notice does not generally apply to employers that provide for reimbursements with after-tax dollars, or the payment is included as part of an employee's cash compensation plan. According to Leavitt Group, there are some vendors that continue to provide these pre-tax

reimbursement accounts, as the companies interpret the ACA law to allow for permissible reimbursement plans under Internal Revenue Code Section 105. Thus, the deliberations continue. If employers are providing pre-tax reimbursement accounts, they should make sure they are in compliance by consulting an attorney or tax consultant.

The two above examples of changing ACA laws and regulations are just a sampling from a huge and complex law. One thing we do know, more changes are coming. To help stay in compliance and minimize potential tax risks, visit the website *Decision Making for Small Businesses* (<http://eship.unl.edu/healthcare>) and consult a health insurance provider, attorney or tax consultant for the latest ACA information.

#### References:

Department of Health and Human Services, Centers for Medicaid and Medicare Services. "Insurance Standards Bulletin Series – Extension of Transitional Policy through October 1, 2016." March 6, 2014. Available at: <http://www.cms.gov/ccio/resources/regulations-and-guidance/downloads/transition-to-compliant-policies-03-06-2015.pdf>

Internal Revenue Service. "Employer Health Care Arrangements." Updated May 13, 2014. Available at: <http://www.irs.gov/uac/Newsroom/Employer-Health-Care-Arrangements>

Klinger, Lisa. "IRS Reiterates that Employer Pre-Tax Reimbursement for Individual Policies is Prohibited." Leavitt Group, May 27, 2014. Available at: <http://news.leavitt.com/health-care-reform/irs-reiterates-employer-pre-tax-reimbursement-individual-policies-prohibited/>

Ramge, Bruce. "Transitional Policies Revised." Nebraska Department of Insurance, April 30, 2014. Available at: <http://www.doi.nebraska.gov/notices/notc2013/notice12.pdf>

U.S. Department of Labor. "Application of Market Reform and other Provisions of the Affordable Care Act to HRAs, Health FSAs, and Certain other Employer Healthcare Arrangements." Technical Release No 2013-03, September 13, 2013. Available at: <http://www.dol.gov/ebsa/newsroom/tr13-03.html>

Marilyn Schlake, (402) 472-4138  
Extension Educator  
University of Nebraska-Lincoln  
[mschlake1@unl.edu](mailto:mschlake1@unl.edu)

Carroll Welte, (402) 374-2929  
Burt County Extension  
University of Nebraska-Lincoln  
[cwelte1@unl.edu](mailto:cwelte1@unl.edu)