

# Their Say *on the* ACA

2010

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On the fifth anniversary of the Affordable Care Act, *Workforce* talked to people who implement, work with and are affected by the ACA. These are their stories.

Since the landmark legislation's approval in March 2010, the Patient Protection and Affordable Care Act has been hailed as the savior of health care in America and derided as "a rolling calamity that has to be stopped." Not surprisingly, the ACA faces more challenges in court and in Congress this year that have the potential to dismantle key provisions of the law or possibly junk it entirely. Yet, through the past five years of hope, hype and hot air, there remains the stark reality of the law's effect on the workplace. It's no understatement to say that the Affordable Care Act has caused countless hours of overtime and produced its share of sleepless nights. Because, at the end of the day, someone has to understand, implement and execute it.

We want to introduce you to a dozen people who have lived with the ACA during these past five years. Whether they support or reject Obamacare is immaterial; they realize that as long as this law is on the books, they must help organizations — their own or someone else's — comply with the ACA. From entrepreneurs to benefits managers to small-business owners to one of the ACA's chief architects, their recollections and accounts are thoughtful, astute and occasionally amusing. We hope you'll take some time to read, relate and maybe even commiserate with their experiences.

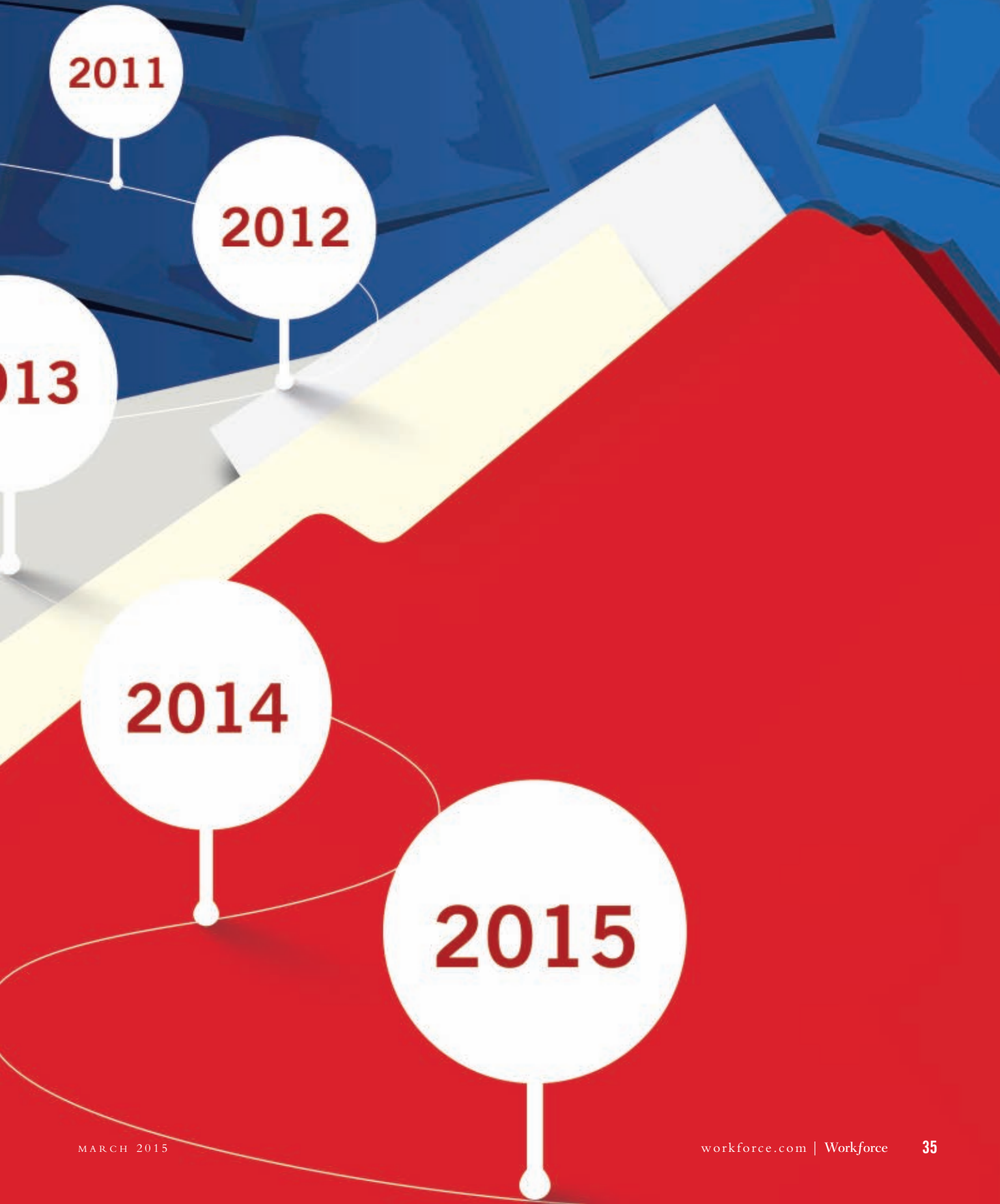
—Rick Bell and Sarah Sipek

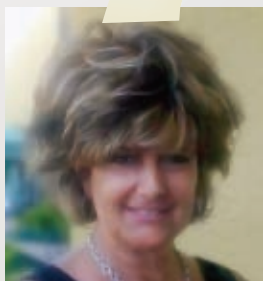


## ON THE WEB

For more interviews with ACA stakeholders and videos with sources in this story, visit:

[Workforce.com/5YearAnniversary](http://Workforce.com/5YearAnniversary)





The *Small-Business  
Owner*

**Paula Bogolin**  
Owner  
Bacchanalia Ristorante

Bacchanalia Ristorante, located on Chicago's South Side, is the result of Belfonte Pieri's American dream. After moving to the United States in 1958 from Tuscany, Italy, he worked several jobs until he saved enough to open the restaurant in 1979. It has been family owned and operated ever since. Pieri died in 2006. Today, his daughter Paula Bogolin and son Dante Pieri run the business. Though the small restaurant falls significantly below the 50-employee benchmark, and most of those employees are family, the implementation of the Affordable Care Act forced Bogolin to reconsider how the restaurant is managed.

"We're all about family. My son busses tables and my mother still hand makes all of our ravioli. My brother and I run the day-to-day. Our employees are friends, but we want to treat them like family, too. The law doesn't require us to offer health care because we only have 12 employees. Everyone is part time or seasonal just because of the expense. We've been fortunate that our cooks and wait staff have been able to get health care coverage through spouses or family members.

"Even though we didn't have to do anything, knowing what the Affordable Care Act requires has changed the way we do our scheduling and how we think of our employees. It's not wait staff and owners. Now we're paying attention to how much they're working. It's part time and full time.

"One of our bigger concerns has been the reporting. We're small. We don't have someone whose only job is to handle the paperwork. We have to collect all this information on our employees in a new way and make sure we're filing correctly so we don't start having to pay penalties. We still have to prove that we're under the limit, and making sure that is done accurately has been an additional task we've had to take on because of the law." —*Sarah Sipek*



The *Administrator*

**Don Garlitz**  
Senior Vice President  
bswift

As a benefits administration provider, Chicago-based bswift's primary concern over the past five years has been providing its clients with a technology solution that enables them to manage their benefits offerings in accordance with the Affordable Care Act's requirements. One of the biggest challenges clients faced was innovating fast enough to meet reporting deadlines. As it turns out, employers found success in turning over health care decision-making to employees in the form of a private exchange. The platform bswift created was attractive enough to warrant the company's acquisition by health insurance giant Aetna Inc. in November 2014.

"Let me start by saying that there are a lot of people out there who would split hairs about what a private exchange is and how you would define it.

"I think for us a private exchange is a sophisticated enrollment solution that allows for defined contribution on the part of the employer. That allows for useful, helpful and easy consumer choice tools on the part of the employee or consumer. It's not just a show me one plan; it's show me many plans and let me pick from them.

"Employers that join private exchanges are not washing their hands of health care. They're changing their approach to health care. They aren't canceling their group insurance and sending people off into the world to buy coverage on their own. That's not what's happening.

"Because private exchanges by and large will continue to offer group insurance plans rather than individual plans to most employer groups, I think it's important to recognize the administrative component of a private exchange has to meet the needs of employers, and it has to meet the needs of employees just as it always has in terms of benefits administration." —*Sarah Sipek*



The Lobbyist

## Michelle Neblett

Senior Director of Labor and Workforce Policy  
National Restaurant Association

Michelle Neblett is a lobbyist for the restaurant industry. She's been involved in working to shape the law since the beginning in addition to advising those throughout the industry on how to best implement the mandated changes. And that's no small feat in an industry with tens of millions of people. In her experience, small restaurants have been hit the hardest.

"Certainly the first thing, and what the law hangs on for us in terms of implementation, is the definition of a full-time employee. That has been a challenge because it is not traditionally what folks use in the industry. Really, we haven't had a definition of a full-time employee. We've had hourly and salaried employee in the industry and if you were hourly and you had wanted to work extra shifts and those shifts were available, you could pick those up along with those extra wages.

"The way this law defines a full-time employee at 30 hours and the associated tax penalties of not offering health care coverage to those full-time employees as defined by the law has had an impact on workforce management practices, whether a restaurant is on the cusp of the 50 and 100 employee benchmarks or not.

"The concern then becomes that employers want to offer coverage, but they want to make sure that they're offering it to the right people and the right time. Participation in the plan is the real issue.

"In the restaurant industry, in some sectors our annual turnover rate is well above 100 percent, so that is just one of those demographic issues and characteristics that has defined how we've looked at the law. More than half of our workforce is under age 30. ... Our workforce has not typically taken an offer of coverage when offered to them.

"We're going back up to Capitol Hill to advocate for very specific changes ... such as changing the definition of full-time employee from 30 to 40 hours." —Sarah Sipek

# Implementing a Landmark Law

**MARCH 23, 2010**



The Patient Protection and Affordable Care Act is signed into law by President Barack Obama.

**SEPT. 23, 2010**

- Children could no longer be denied coverage based on pre-existing conditions.
- Insurance companies could no longer rescind coverage.
- Insurance companies could no longer institute lifetime limits on coverage.
- Young adults could now stay on their parent's plans until they turn 26.

**JAN. 1, 2011**

To ensure that premium dollars are spent primarily on health care, the ACA requires that 85 percent of all premium dollars collected by insurance companies for large employer plans are spent on health care services and health care quality improvement. For plans sold to individuals and small employers, at least 80 percent of the premium must be spent on benefits and quality improvement.



The Benefits Manager

## Ellen Vebber

Director of Compensation and Benefits  
Ann & Robert H. Lurie Children's Hospital of Chicago

The Ann & Robert H. Lurie Children's Hospital is dually affected by the Affordable Care Act: The hospital is an employer, which means it must provide health care coverage, but as a health care provider, there is the added difficulty of continuing to provide the same level of care to patients and families as the organization's overall financial burden increases.

"Like everyone else, it was really just about making sure we were aware of the employer mandates and that we were prepared to make changes as needed. We haven't really changed what's covered. It's still a rich plan, but there has been a cost shift from employer to employee, and that has been a major pain point.

"Prior to the ACA, we did offer a traditional PPO and HMO plan. In 2012, we put a high-deductible health plan in place to offset some of the plan costs. Since then we've had to modify the premium and deductible structures. It's had a real impact on recruitment and retention. We rely on part-time staff, so we've always offered them benefits even before the 30-hour rule went into place. We need to stay aware of the marketplace across the country and within our geographic area

so that we continue to offer a competitive health plan with quality benefits that helps us keep our retention numbers up. We want to demonstrate our commitment to the part-time staff, but the offerings are still scaled so that those who are employed on a full-time basis do have better coverage.

"Overall, we've shifted a lot of the cost to employees in the form of premiums and out-of-pocket costs both in deductibles and out-of-pocket maximums. Good, bad or ugly, they have felt that burden.

"Even though the legislation has us cutting back on costs in order to make sure everyone gets covered, it's also created a need for new positions ... to help patients and families navigate health insurance." —Sarah Sipek

### MARCH 1, 2012

To help understand and reduce persistent health disparities, the ACA requires any ongoing or new federal health program to collect and report racial, ethnic and language data.

### OCT. 1, 2012

The first regulation goes into effect to standardize health care billing and require health plans to begin adopting and implementing rules for the secure, confidential and electronic exchange of health information.

### JUNE 28, 2012

The U.S. Supreme Court upholds the health care reform law by a 5-4 decision.

### SEPT. 16, 2013

*King v. Burwell* (formerly known as *King v. Sebelius*) is filed. The petition challenges an Internal Revenue Service regulation that provides subsidies to both state and federally established exchanges. The petitioners argue the subsidies violate the law enacted by Congress, which gave states the choice to either set up such exchanges themselves or stay out of the program. They believe this regulation will force the employers to pay expensive fines, cut back employees' hours or severely burden their businesses.

### OCT. 1, 2013

Open enrollment in the health insurance exchange marketplace begins with the official launch of [healthcare.gov](http://healthcare.gov).



The Reform Resource

## Tracy Watts

Senior Partner, National Leader for U.S. Health Care Reform  
Mercer

From the beginning, consulting firm Mercer knew implementing the Affordable Care Act would be arduous. And it had the data to back it up. The first step after the legislation passed was to conduct a survey of employers to determine their impression of the law to determine how Mercer could best assist. The results were surprising. In 2010, employers' biggest concern was the so-called "Cadillac" tax, which is not scheduled to go into effect until 2018. Complying with the excise tax has remained among employers' top priorities.

"I've been with Mercer for over 25 years, and never in my career were we focused on every move made around a law.

"The fact that we had a Supreme Court decision where pretty much everyone in the industry was glued to their TV screen waiting for the decision on the individual mandate and whether that would be upheld spoke to the gravity of the law. ... Employers want to know about everything that happens, and they want to understand it.

"In years past, the focus was on getting that percentage increase down to the budgeted number. All that employers could think about was next year's enrollment. The ACA really forced employers to take a more long-term and strategic look at their benefits, which is a very positive thing. The law is forcing employers to consider how to best provide for

their employees' health care in the long term.

"We know from our survey data that as early as 2013 employers were already making changes to their benefits programs in anticipation of the excise tax in 2018, and I think that is definitely evidence that employers are taking a long-term view in how they are looking at their programs and how they are managing their benefits programs going forward. The excise tax continues to be a really big threat from the financial perspective regardless of the size of the company.

"We haven't had a single word of guidance or anything from the regulators because they've been so busy dealing with the more immediate requirements." —Sarah Sipek

### JAN. 1, 2014

Annual limits on insurance coverage eliminated.

Individual responsibility goes into effect, meaning that those who can afford it will be required to obtain basic health insurance coverage or pay a fee to help offset the costs of caring for uninsured Americans.

### APRIL 10, 2014

Kathleen Sebelius resigns as Health and Human Services secretary six months after a disastrous initial rollout of [healthcare.gov](http://healthcare.gov).

### JAN. 1, 2015

The employer mandate goes into effect for companies with 100 or more employees. (Next January, the employer mandate is scheduled to be expanded to companies with 50 or more employees.)



The *Benefits Manager*

**Sarah Lecuna**  
U.S. Benefits  
Offerings Leader  
Intuit Inc.

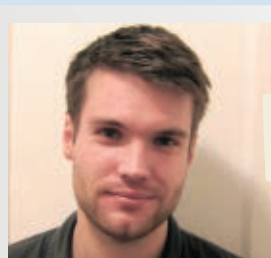
Tax preparation software company Intuit Inc. had robust benefits offerings before the Affordable Care Act. As a result, getting into compliance with mandatory changes, such as no longer discriminating based on pre-existing conditions, required no effort on Intuit's part. The real challenge was making sure all reporting was done correctly, which the company solved by partnering with Aon Hewitt. Outsourcing some of that burden to consultants allowed Intuit to focus instead on the human aspect of benefits administration.

"We've put a lot of effort into communication resources around employee education. As far as the coverage, we have a very rich benefit plan, so we haven't had any complaints. The Affordable Care Act has been in the news so much our employees have paid attention to the communication pieces that we've put out.

"The only thing that really has changed is that we had a PPO plan that no longer exists and we switched it out with a high deductible HSA plan so the employees could put more toward their future health care costs into that health savings account. That's really the biggest change that has happened to our plan was implementing that and removing the PPO.

"Private exchanges have started to enter the conversation as of late. I think that every single consulting firm talked to their client about that. However, I think that a lot of tech companies are not yet ready to pull that trigger.

"We're all self-funded, so one of the levers that we're trying to pull is things like the wellness programs. We're trying to get our employees active and watching what they eat through a variety of on-site wellness initiatives. The other piece is the consumerism piece and educating our employees on how to be better consumers of medical care. ... We want them to understand how to take full advantage of the plans we offer to them." —Sarah Sipek



The *ACA Consumer*

**Scott Bolohan**  
Freelance columnist

Scott Bolohan is a freelance writer who lived in Chicago until early this year, when he moved to England to attend school at Oxford. This is the tale of one millennial's reluctant adventure into using Obamacare.

"There's nothing cool about health insurance. It won't get you followers or likes or help you on Tinder. When I hang out with my friends, we don't talk about our copays and premiums.

"To be honest, health insurance was always a bit of an afterthought. Or at least something I thought I didn't need. I freelance for a living, which means I have all sorts of flexibility and get to do exactly what I love, but it also means I don't get health insurance.

"And that wasn't a big deal. I had only been to the doctor once in the last couple years, so the \$150 for a visit was significantly less than what I would have paid monthly for insurance. It was a risk I was willing to take, especially on my rather modest income. After all, I was healthy and active and young. You don't think about not being that way — ever.

"When Obamacare was unveiled, I figured it was something I should do. Then I sort of forgot about it. On the final day of enrollment, I finally decided to enroll, mostly because my mom worries about me.

"Enrolling wasn't perfect. The process was confusing and, at the end, I wasn't even really sure what I had just done. I didn't have a primary-care physician and the one assigned to me ended up not having an office near my apartment. It was reassuring to have, even if health insurance was something I didn't anticipate needing.

"But health insurance is one of those things you don't think you need until you do. I hurt my ankle playing baseball. Since I had insurance, I decided to go to the hospital. It's a good thing I did; I broke the fibula. When I went back two weeks later, they told me I would need a plate and five screws put in my ankle. My summer was ruined. But my life wasn't. Without Obamacare my hospital visits, surgery and physical therapy would have been around \$30,000. That's a sum I would be spending years ... trying to pay back." —Rick Bell



The Analyst

## Mike Psenka

Senior Vice President of Workforce Analytics  
Equifax Workforce Solutions

Mike Psenka has spent the past several years patiently preparing employers for the inevitable — implementation of the Affordable Care Act. From procrastination to outright denial, it seems like Psenka has heard it all. He offered some observations on the ACA's impact on the workplace.

“Many employers realized just how far behind they were organizationally in July of 2013 when [the Obama administration announced delays in the implementation of several ACA provisions]. The overriding theme from employers over the last 24 to 26 months has been, ‘This is more involved than we previously estimated.’ The delay allowed many organizations to push ahead and make the necessary changes so they could remain compliant when the legislation became enforceable.

“The ACA is primarily a compliance issue for employers. But, it is also a cost issue, revenue issue and brand issue for many employers. Because it touches so many areas within the organization, and there are so many intersecting lines, the ball can get dropped quickly. The ACA is a cross-func-

tional effort. In addition to HR, finance and IT play significant roles in executing against this legislation. And, for businesses like staffing, it engages the business development, strategy and sales components of the organization.

“The intricacies of the legislation require new information flows that did not previously exist. And, as we have all heard in the past, ‘garbage in, garbage out.’ ‘Garbage out’ in terms of the ACA means not insuring someone who should have been insured, insuring someone who didn’t need it, creating the wrong benefit plans for your organization. Or, missing reports to the government that determine fines.

“There will be a new normal with the ACA. Like any significant legislation, it will be refined as we move forward.” —*Rick Bell*



The Entrepreneur

## Taro Fukuyama

CEO  
AnyPerk

The Affordable Care Act has been good to Taro Fukuyama, CEO of AnyPerk, a San Francisco-based company that partners with organizations to provide employee perks such as gym memberships and travel opportunities. Fukuyama founded the company in 2012 on the principle that unhappy employees won’t make a company successful. Since the ACA legislation changes have gone into effect, Fukuyama, a 2014 Workforce Game Changer, has seen his perks morph into necessities as recruiters struggle to attract high-quality candidates.

“Nobody cares about health insurance anymore.

“In my own experience, when we interview candidates, they don’t ask about health insurance anymore. They know that it is most likely going to be covered by the company as a result of the Affordable Care Act. Candidates just don’t view health care benefits as a competitive advantage anymore in terms of hiring and retention.

“Personally, we don’t emphasize insurance during interviews or when we make an offer anymore. Instead, we emphasize our perks as an indication of how much we care about our employees. We have free food for you, a free breakfast and free lunch. It’s something that we really need to proactively show as a message

during [the] interview or during the hiring process.

“And it’s not just us. We’ve seen this across the industry as well. I’ve spoken with our funders as well as other companies, and the consensus seems to be that the main things candidates care about are salary, equity and what kinds of perks the company offers.

“But employee health is still a concern. Instead of focusing on health insurance, one of the most popular practices we’ve seen is to use perks to drive overall wellness and health performance. The burden of choosing the right health care plan rests on the employees, but employers still want to show that they care about their employees.” —*Sarah Sipek*





The Employment Attorney

## Rachel Cutler Shim

Counsel  
Reed Smith LLP

As an employee benefits attorney at law firm Reed Smith LLP, Rachel Cutler Shim has spent the past five years clearing up the federal government's absence of clear guidance to correctly fill out forms and helping clients navigate issues ranging from phasing in annual limits to accurately counting full-time employees. While she appreciates the value of the health care coverage the legislation aims to provide, she thinks the government should have been clearer that reform is about more than accurately recording data and filing paperwork; it's a complete culture change.

"Employers are not used to a significant amount of regulation on the health and welfare side. There was COBRA and HIPAA in the 1980s and 1990s, but that dealt mainly with privacy and security analysis. With the ACA you have very complicated calculations that have to be performed with regards to hours of service and to understand how an employer incurs a fine. All of a sudden there was a culture change, and health and welfare plans became much more complicated to run.

"I'm sure the government didn't want to address that because it wouldn't be a very good PR statement for the ACA, but there's no question that the ACA has made executing these programs more difficult. You need professionals involved who

are paying attention to the reams and reams of regulations and guidelines.... That wasn't made clear from the beginning, and many employers have been penalized because of it.

"In the end they've ended up having to delay a lot of these provisions. The Shared Responsibility [provisions were] supposed to go into effect in 2014 and didn't happen. It's going to be 2015. We now have the 70 percent threshold instead of the 95 percent. Companies with under 100 employees are now not subject to the act in 2015. It really has been delayed quite a bit. We still don't have nondiscrimination testing rules for insured programs. ... I think they should have rolled this out slower from the beginning." —Sarah Sipek



The Insurer

## Kari Stevens

Senior Counsel  
Cigna Corp.

Cigna Corp. is a Chicago-based insurance agency. The Affordable Care Act expanded that role to include health care educator. By the time the legislation was signed into law in 2010, Cigna already had a plan in place to inform both brokers and clients about the upcoming changes and the actions they would need to take in order to be in compliance. There's still a plan in place, but given the stops and starts the legislation has endured, it looks quite different than it did five years ago.

"We knew immediately that we would need to function as a resource to understand the legislation. So we purposefully got upfront when it came to providing clear and accurate information around health care reform.

"And there hasn't been a dull moment since 2010. We established a core team that has been nimble and able to react to all the stops and starts within the law. They've also been able to digest all the information and make sure that it makes sense to employers and employees, which hasn't been easy.

"The biggest challenge has been staying out in front of the legislation. Our employees need to understand how to implement the mandates within companies of all sizes and

industries in order to best serve our clients. With that being said, the deadline changes and exceptions for different size companies have been both a blessing and a curse. It's given us more time to develop solutions and resources for our clients, but it means we need to be constantly aware of changing deadlines and requirements.

"One of the biggest challenges we've seen employers face is getting in compliance with the employer mandate. Educating employers about that aspect of the law in particular made us realize that there isn't one simple solution to helping roll out the legislation.

"Every company needs something different." —Sarah Sipek



The ACA Architect

## Kathleen Sebelius

Former Secretary, U.S. Department on Health and Human Services;  
consultant and speaker on health care reform

Kathleen Sebelius is considered among the architects of the Affordable Care Act, having served as U.S. Department of Health and Human Services secretary under the Obama administration from March 2009 until her resignation in April 2014 following the disastrous rollout of **healthcare.gov**. Despite the fallout, Sebelius, a former two-term governor of Kansas, remains a staunch supporter of health care reform and speaks publicly on the law's behalf.

**ON THE PAST:** "In my role as secretary and one of the people on the front line of trying to put together and implement the bill, I spent a lot of time dealing with input from employers and certainly their employees as we developed regulations — what was going to be burdensome and what would be helpful. How could we create a platform that companies would actually come in and participate? What were the balancing issues between consumer protection and a business-friendly environment? I have a different perspective now that I've been out of the department for [several] months, hearing more from the private-sector side, but that input was always critical in trying to develop a framework for this big change in health care law."

**'Once you have a level playing field where everybody's in, I think they'll be able to make strategic choices about what's the best way they can move forward.'**

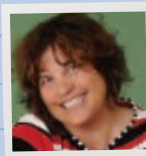
**ON THE PRESENT:** "There's more innovation, entrepreneurialism and energy than ever before. You can make choices and drive price. That's a brand-new thing for health care. It's a \$2.5 trillion industry that, until 2008, was basically exchanging most things on paper files, which would be unheard of in the banking industry or for other service providers. But health care was pretty impervious to that intrusion. There's a lot of comparison information available now that was not in the recent past to employers who are health care purchasers. Who's doing the best job at what price point, and how can I get the best impact for my employees? There's a lot of emphasis now around health and wellness and prevention issues, which is all good for the workforce. The more early predictors of chronic conditions can be lowered, the healthier the workforce, the more opportunities to keep people on the job and more productive is all a benefit to employers. All of those efforts are combining to make for a different health scenario compared to a few years ago."

**ON THE FUTURE:** "The markets will be robust and continue forward, and in five years we will have stabilized risk pools and competitive opportunities in areas where people had no competition. But I think that the underlying delivery system reform will also be well-engaged by that point. Since Medicare has a basic contract with almost every hospital, virtually every doctor, every drug company, every device company in the health care space, that as Medicare shifts its payment policy away from fee-for-service and into a value-based proposition that's looking at outcomes and measurements, that will also shift a lot of the private-sector financing into that formula. I think a lot of the private-sector employers have been anxious to do this for a long time. They just did not have the, if you will, juice in the system to be able to make that kind of contractual arrangement as long as Medicare as the big public program was paying differently to the hospitals.

"So I think we're going to see a lot of innovation, a lot of focus on how to keep people healthy in the first place, as opposed to waiting until acute care is necessary. A lot of innovation around new drug therapies and opportunities to reduce hospital stays, to intervene at an earlier basis, will be beneficial for the business community who have been trying to offer employee benefits as a way to recruit and retain great employees.

"Once you have a level playing field where everybody's in, I think they'll be able to make strategic choices about what's the best way they can move forward. I think the whole exchange idea — having choices, having opportunities for people to be more transparent about what benefits they're offered and how to best formulate a plan for themselves and their family, is going to be much, much more prevalent in the future." —Rick Bell

### Workforce.com Extra



*'I didn't qualify for group plans as an individual. Plus, back then if you had anything wrong with you, or if you had ever been treated for anything, you couldn't get coverage.'*

—Margie Meacham, owner and sole proprietor of Learning to Go, an instructional design consulting firm

To read more about Meacham, visit [workforce.com/5YearAnniversary](http://workforce.com/5YearAnniversary).