Health Care Reform Update

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About Us…

- **Established 1992**
- **Offices in Connecticut and Rhode Island**
- **Multi- Disciplined:**
  - Health & Welfare
  - Retirement Plans
  - HR Compliance & Regulatory
- **Non Profit Focused**
  - 80% Clientele Non-profit
  - CCPA Endorsed

- **An NFP Benefits Partner Firm**
  - 4th Largest US Based Privately Owned Broker
  - 11th Largest Global Insurance Broker
- **A proud member of Retirement Plan Advisory Group**
  - 21,000 Retirement Plans
  - $86 Billion Assets Under Management
  - Top 1% of Advisors in the U.S.
- **Creator of The Alliance for Non-profit Growth and Opportunity (TANGO)**
  - Non-profit consortium with over 900 Members & 35 Partners

Agenda

- Understanding when the employer mandate applies to you
- Identifying full-time employees
- How to set up look-back measurement periods
- Offering coverage that meets minimum value and affordability
- Preparing for the 2016 reporting requirements
- Fees and taxes
- The truths and myths of exchanges
- New prohibitions on reimbursement arrangements

Employer Mandate

Which employers are subject to the mandate?

< 50

Full-time equivalent employees

X

≥ 50

Full-time equivalent employees

✓

When employers are subject to the mandate?

50- 99 Full-time equivalent employees	100 or more Full-time equivalent employees
2016*	**2015**

Caution for employers with 50-99 FTE's

- Must not reduce its workforce or overall hours of service for employees during 2014
  - Exception for bona fide business reasons- sale of a division, terminations of employment for poor performance, loss of business contract

- Must continue the same employer contribution through the end of the 2015 plan year (as compared to Feb. 9, 2014)
  - At least 95% of the employer's dollar contribution
  - The same or higher percentage of cost

- Must not eliminate or materially reduce the health coverage, as offered on Feb. 9, 2014. Coverage must be maintained at 60% MV or higher

- Must file a certification that will be submitted with 6056 reporting

Is an employer subject to the mandate on Jan. 1, 2015 or 2015 plan year date?

- 2015 transition relief for non-calendar year plans
  - Non-calendar year plan must have been in place on Dec. 27, 2012 and could not have subsequently changed plan year to a later calendar date
    - Those who changed to a Dec. 1, 2013 plan year (early renewal strategy) will not qualify for transition relief. Must comply Jan. 1, 2015
  - Must meet one of the following criteria:
    - Offered coverage to at least 33% of all employees (or 50% of FT employees) during the most recent open enrollment period prior to Feb. 9, 2014; OR
    - Covered at least 25% of all employees (or 33% of FT employees) on any day between Feb. 10, 2013 and Feb. 9, 2014
  - Must offer minimum value coverage on the first day of the 2015 plan year
  - Additional relief- no penalty due for an employee who was eligible under the terms of the plan on Feb. 9, 2014

What does XYZ Company need to do?

- Amend eligibility to include 30+ hr EE’s

- Identify full-time employees
  - Set-up measurement periods for variable hour and seasonal employees

- Offer minimum value, affordable coverage to FT EE’s

Controlled Groups- Penalties

- Controlled groups are counted together for determining size
- Penalties are assessed separately

Offer coverage to FT EE's and children

Penalty A

- Must offer coverage to substantially all full-time employees (30+ hours per week) and children or pay a $2,000 penalty per FT employee

	Offer coverage to	No penalty on
2015	70% of FT EE's	First 80 FT EE's
2016 and subsequent year	95% of FT EE's	First 30 FT EE's

To whom do we need to offer coverage?

Non-traditional employees- commissioned, sales, etc.

- Must implement a reasonable formula to calculate hours worked
- Taking into account time spent traveling, meeting, preparing, etc.

To whom do we need to offer coverage?

Temporary employees

- If they are not variable hour or seasonal; AND
- They regularly work 30 hours or more per week

They are a FT employee and should be offered coverage by the first day of the fourth full month

To whom do we need to offer coverage?

Independent Contractors

- Conduct analysis to determine if the contractor is correctly classified.
  - Behavior and financial control
  - DOL Fact Sheet: http://www.dol.gov/whd/regs/compliance/whdfs13.htm
  - DOL eLaws Advisor: http://www.dol.gov/elaws/esa/flsa/docs/contractors.asp

If truly an IC-they are not an employee.

Do not offer coverage.

What is the look-back period?

- Look-back = measurement period
- NOT for FT EE’s
- NOT for PT EE’s
- ONLY for variable hour and seasonal EE’s

Measurement Period

New Employees

Initial Measurement Period	3 to 12 months
Initial Stability Period	Same as standard measurement period or 6 months, whichever is greater
Initial Administrative Period (optional)	Up to 90 days, but when combined with initial measurement, stability cannot start more than 13 months (and days until first of next month) from start date

Ongoing Employees

Standard Measurement Period	3 to 12 months
Standard Stability Period	Same as standard measurement period or 6 months, whichever is greater
Standard Administrative Period (optional)	Up to 90 days

Measurement Period: Example

XYZ Company

Plan year: June 1, 2014 through May 30, 2015

Standard Measurement Period: 05/01/14-04/30/2015

Admin Period: 05/01/15-05/31/2015

Stability Period: 06/01/2015-05/31/2016

What coverage needs to be offered?

Penalty B

- Coverage offered must
  - Meet minimum value; and
  - Be affordable.
- If not, pay a penalty of $3,000 per FT employee who receives a premium tax credit.
- No major changes in final regulations

What is minimum value?

the plan's share of the total allowed costs of benefits provided under the plan is at least **60 percent** of such costs

When is coverage affordable?

9.5% of EE’s wages

Self-only coverage

Lowest cost option

How do wellness programs interact with the affordability requirement?

Wellness rewards are disregarded for affordability purposes, unless they are tobacco related.

Non-tobacco related

Premium Cost	Wellness Reward	EE Contribution w/ reward	EE Contribution w/o reward	EE Cost for Affordability Purposes
$500	$150	$100	$250	$250

Tobacco related

Premium Cost	Wellness Reward	EE Contribution w/ reward	EE Contribution w/o reward	EE Cost for Affordability Purposes
$500	$250	$100	$350	$100

Employer Informational Reporting

Informational Reporting under Section 6055

	6055	6056
Purpose	To administer individual mandate	To administer employer mandate and premium tax credit eligibility
Responsibility	Fully insured: Carrier Self funded: Employer with less than 50 full-time EE's	Employers who are subject to employer mandate. *(Controlled group members report separately)*
To Whom	Employee; and IRS	Employee; and IRS
What Information	Who was covered	What type of coverage was offered and to whom
How	IRS Forms 1094-B; 1095-B	IRS Forms 1094-C; 1095-C
When	To Employee: Jan. 31, 2016 To IRS: Feb. 28, 2016* *(March 31, 2016 if electronically filed)*	To Employee: Jan. 31, 2016 To IRS: Feb. 28, 2016* *(March 31, 2016 if electronically filed)*

To Get Ready for Reporting

Implement procedures to make sure that you are able to report the following data:

- Number of FT EE’s and total EE’s by month (calendar, not payroll period)
- Identification of FT EE’s
- What coverage was offered to whom
- Months EE, spouse, and children are enrolled
- Documentation of offers- waiver forms are critical
- Documentation of safe harbors including measurement periods and affordability methodology

Cadillac Tax

What is it?

- 40% excise tax on high-cost coverage
- High-cost coverage (annual premium or premium equivalent)
  - Single $10,200/ family $27,500
  - Is expected to include ER contributions to HRA, the EE and ER contributions to health FSA, & ER contributions and EE contributions to HSA
- Responsibility
  - Fully insured- Carrier
  - Self-funded- Employer plan sponsor

Exchanges

Public Exchange

- Marketplace for individual or small group coverage
  - SHOP- 50 EE's or fewer. (100 or fewer in 2016)

State Run	Federally Facilitated
• CA, CO,CT, DC, HI, KY, MD, MA, MN, MS, NV, NM, NY, OR, RI, UT, VT, WA	• AL, AK, AZ, AR, DE, FL, GA, ID, IL, IN, IA, KS, LA, ME, MI, MO, MT, NE, NH, NJ, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI, WY

- Most states allow small employers to purchase coverage outside of the exchange
  - Not Vermont or DC
- The Small Business Health Care Tax Credit only available through public exchange
- Currently no employee choice in federally facilitated

What is a Private Exchange?

- Marketplace for group coverage
- Employee Choice
  - Multiple carriers
  - Multiple metal tiers
  - Multiple benefit designs
- Defined contribution
- Online enrollment
- Customer service
  - Call center
- Reporting
- Compliance Support

Challenges

- Carrier participation
  - Regionalization
  - Electronic data interchange
  - Interest in only larger groups
- For smaller groups
  - Precludes an employer from the Small Business Health Care Tax Credit
- Group plan compliance
  - ERISA- Summary Plan Descriptions (SPD)
  - PPACA- 6056 Reporting
  - Medicare Part D Disclosure Notification to CMS
  - COBRA

Reimbursement Arrangements:

IRS Notice 2013-54

Stand-alone HRAs

- Prohibited effective for plan years starting on or after Jan. 1, 2014
- Must be integrated with group health plan
  - ER must offer a group health plan that provides coverage other than excepted benefits
  - HRA participants must be enrolled in a group health plan
  - EEs must be offered the opportunity to opt out of and waive reimbursements from HRA

Reimbursement of individual policy premiums

Effective Jan. 1, 2014, an employer cannot reimburse or pay on a tax advantaged basis the cost of an individual policy

Q1. What are the consequences to the employer if the employer does not establish a health insurance plan for its own employees, but reimburses those employees for premiums they pay for health insurance (either through a qualified health plan in the Marketplace or outside the Marketplace)?

Under IRS Notice 2013-54, such arrangements are described as employer payment plans. An employer payment plan, as the term is used in this notice, generally does not include an arrangement under which an employee may have an after-tax amount applied toward health coverage or take that amount in cash compensation. As explained in Notice 2013-54, these employer payment plans are considered to be group health plans subject to the market reforms, including the prohibition on annual limits for essential health benefits and the requirement to provide certain preventive care without cost sharing. Notice 2013-54 clarifies that such arrangements cannot be integrated with individual policies to satisfy the market reforms. Consequently, such an arrangement fails to satisfy the market reforms and may be subject to a $100/day excise tax per applicable employee (which is $36,500 per year, per employee) under section 4980D of the Internal Revenue Code.

Questions?