

Health Care Reform

Preparing for January 1, 2014 and Beyond

As part of our ongoing initiative to provide added value to our customers, this health care reform summary is being provided on an information only basis. This is NOT a legal document and is not intended to be construed as an endorsement, legal advice, or recommendation, **nor should it be used as a substitute for guidance from a professional benefits consultant or legal counsel.**

This document, along with future informational updates, can be found at <http://www.PPACAinfo.blogspot.com>. The site will provide access to new information when regulations have been proposed or finalized. Please note: The site was created for information purposes only and will not have Q&A functionality.

Executive Summary

Major provisions of the Patient Protection and Affordable Care Act (PPACA) will be implemented on January 1, 2014. This legislation is frequently referred to by the media as "Health Care Reform" or "Obamacare." Employers have been awaiting additional guidance as regulations have been proposed and finalized since the Supreme Court upheld the act as constitutional in the summer of 2012.

This document will serve as a brief summary of what provisions take effect during the remainder of 2013, what employers should be doing to prepare for 2014, and where you can go to find legislative updates and more information throughout the year.

Does the PPACA apply to my business?

The PPACA requires large employers, defined as companies with 50 or more full-time employees or full-time equivalent (FTE) employees, to offer affordable employer-sponsored health coverage or pay a penalty. The law does not apply to employers with less than 50 employees. However, employers with fewer than 25 full-time employees, that pay an average wage of less than \$50,000 per year, may be eligible for tax breaks if they offer health coverage subsidized at 50% or more.

Please note: Although the PPACA may not apply to your business, if you have less than 50 employees, the legislation still affects all of your employees. Any individual who does not have health coverage will be subject to an IRS penalty beginning in 2014.

Critical Dates

Effective dates for provisions of the PPACA are spread out from 2010 through 2018. This document focuses on 2013 and 2014.

The following provisions affecting employers and/or employees took effect on January 1, 2013:

- Flexible Spending Account (FSA) contributions were capped at \$2,500.
- Restrictions on annual dollar limits for "*Essential Health Benefits*" were capped at \$2 million, up from \$1.25 million, for plan years beginning on or after September 23, 2012.
- The Medicare Retiree Drug Subsidy (RDS) no longer has tax favored status.
- The Medicare payroll tax increased 0.9% from 1.45% to 2.35% on wages above \$200,000 for an individual or \$250,000 for couples.

**Items in italics are defined on p. 4.*

Health Care Reform

Preparing for January 1, 2014 and Beyond

Upcoming provisions that take effect in 2013 and 2014 are:

- Patient-Centered Outcomes Research Institute (PCORI) Fee** – Health plans will be assessed a \$1-per-participant fee per year to fund research on patient-centered outcomes for medical treatment. This fee affects plan years ending on or after October 1, 2012. The amount increases to \$2 per participant the following plan year. The fee will be assessed through the plan year ending on or before September 30, 2019 and the dollar amount is subject to annual review. *Self-Insured Plan Sponsors* must report liability annually on IRS Form 720 and pay the fee by July 31 of the calendar year immediately following the plan year. *Fully Insured* plan administrators will collect the fee and file with the IRS on behalf of participating employers.
- Notice to employees of insurance options in the marketplaces (formerly referred to as exchanges)** – Employees will have several choices of where to purchase health coverage in 2014. They may purchase coverage through their employer (if available), an individual insurance agent or broker, or through one of the *marketplaces*. Employers and other *plan sponsors* must provide a notice to employees and new hires explaining the upcoming availability of and eligibility for coverage in the insurance *marketplaces*. *Marketplaces* will be run by the state, federal government, or a combination of both. States may also sponsor a separate Small Business Health Options Program (SHOP) *marketplace* for small business owners. Employees may be eligible for subsidized coverage in the public marketplaces depending on their income level. Some employers will choose to offer coverage through private *marketplaces* as well. This notice has been postponed from March 1, 2013 to October 1, 2013. The model notice and additional guidance is available at www.dol.gov.
- Marketplace open enrollment** – Effective October 1, 2013, employees will be eligible to enroll in coverage through the public *marketplaces*. Each state will offer a public marketplace run by the state, federal government, or a combination of both. Enrollment will last through February 28, 2014. This information will be covered in the above-mentioned notice.
- Individual Mandate** – Individuals will be penalized by the IRS if they are unable to prove they have health insurance. The following penalties are pro-rated by the number of months without coverage and there is no penalty for a single gap in coverage less than three months in a year.

| | 2014 | 2015 | 2016 | 2017+ |
|---------------------------------|--|--|---|---|
| Penalty per adult per year | \$95 | \$325 | \$695 | Indexed to inflation, never more than the average cost of Bronze plan (plan with 60% actuarial value) in the marketplaces |
| Penalty per child per year | \$47.50 | \$162.50 | \$347.50 | |
| Max penalty for family per year | > of \$285 or 1% of family annual income | > of \$975 or 2% of family annual income | > of \$2085 or 2.5% of family annual income | |

Health Care Reform

Preparing for January 1, 2014 and Beyond

Employers should take the following action to prepare for January 1, 2014:

- Determine if you are considered a “large employer,” defined as employing 50 or more full-time or full-time equivalent (FTE) employees on business days during the preceding calendar year (Miller, Steven T., January 2, 2013.) Please visit <http://www.irs.gov/pub/irs-drop/n-12-58.pdf> for information on how to calculate FTEs.
- If you determine you are a “large employer,” decide whether you will “pay” or “play.”
 - ◊ “Pay” – Large employers who do not provide health coverage will be subject to a \$2,000-**per-employee** penalty for all FTEs in excess of 30 employees if one or more FTEs obtain a tax credit or cost sharing assistance from the government and buys coverage in the marketplace. The penalty applies to all employees in an organization, not just employees covered under the health plan(s).
 - E.g., an employer with 75 employees, that has one employee purchase coverage in the marketplace, will be subject to a \$90,000 penalty.

$$75 - 30 = 45 \times \$2,000 = \$90,000$$

- ◊ “Play” – Large employers who begin or continue to offer health coverage, but provide unaffordable coverage, will be subject to a penalty equal to either \$3,000 **per FTE who receives a federal subsidy** or \$2,000 for **all FTEs** in excess of 30 employees, whichever is less. Please note: The \$2,000 penalty would apply to all FTEs in an organization, not just employees covered under the health plan(s).

Coverage is considered unaffordable if the cost of coverage exceeds 9.5% of household income, the employee falls within 100%-400% of the federal poverty level, **and** the plan’s actuarial value (employer share of the overall cost) is less than 60%.

- E.g., an employer with 75 employees, who offers unaffordable coverage, and has 25 employees enroll in the marketplace with a federal subsidy, will be subject to a \$75,000 penalty.

$$25 \times \$3,000 = \$75,000 < 45 \times \$2,000 = \$90,000$$

- If you decide to “Play,” set up 2014 plans to comply with the following provisions:
 - ◊ Offer dependent child coverage up to age 26.
 - ◊ Ensure that new employees do not have waiting periods longer than 90 days.
 - ◊ Plan may not be subject to any pre-existing condition exclusions.
 - ◊ No annual or lifetime dollar limits on *essential health benefits*.
 - ◊ Non-grandfathered health plans must cap deductibles and out-of-pocket maximums for *essential health benefits* at the same annual IRS limits as high deductible health plans.

Health Care Reform

Preparing for January 1, 2014 and Beyond

Resources

It is extremely important to stay on top of updates to the PPACA. The legislation continues to change and certain regulations have not been finalized. Any questions should be addressed with your current insurance carrier or broker, if applicable. Otherwise, you may choose to confer with a professional benefits consultant or legal counsel.

L&W Supply has also created a resource for you at www.PPACAinfo.blogspot.com. The site will provide access to new information when regulations have been proposed or finalized.

Please Note: The site was created for information purposes only and will not have Q&A functionality.

Other helpful websites with detailed information are as follows:

<http://www.dol.gov/ebsa/healthreform/>

<http://www.healthcare.gov/marketplace/small-businesses/index.html> – sign up for email or text updates in English or Spanish

<http://www.healthcare.gov/marketplace/get-ready/small-business-checklist/index.html>

<http://www.healthcare.gov/using-insurance/employers/small-business/index.html>

<http://www.irs.gov/uac/Small-Business-Health-Care-Tax-Credit-for-Small-Employers>

http://www.naic.org/state_web_map.htm - learn about individual state coverage requirements

<http://www.sba.gov/healthcare>

<http://www.smallbusinessmajority.org/hc-reform-faq/>

Definitions

Essential Health Benefits – Ten categories of core benefits which must be covered by all health plans. The scope of these benefits is defined using one of four benchmarks. For more details on the benchmark options visit <http://www.healthcare.gov/news/factsheets/2012/11/ehb11202012a.html>.

1. Ambulatory patient services
2. Emergency services
3. Hospitalization
4. Maternity and newborn care
5. Mental health and substance use disorder services, including behavioral health treatment
6. Prescription drugs
7. Rehabilitative and habilitative services and devices
8. Laboratory services
9. Preventive and wellness services and chronic disease management
10. Pediatric services, including oral and vision care (“Essential Health Benefits,” 2012)

Exchange (see Marketplace)

Fully-Insured – An employer contracts with a third party to assume financial responsibility for their employee’s health insurance claims and administrative costs.

Health Care Reform

Preparing for January 1, 2014 and Beyond

Marketplace – A purchasing tool for individuals and small businesses that allows the comparison of health care policies and premiums. There are three types of marketplaces.

1. **Public** – Each state will have a public marketplace run by federal, state, or a federal/state combination. Employees can elect to purchase coverage through this marketplace **whether or not** their employer offers coverage through an employer-sponsored health plan or private exchange. If their employer does not offer coverage OR the coverage the employer offers is considered “unaffordable,” the employer will pay a penalty, and the employee may qualify for a subsidy from the federal government depending on their income level. Large employers (50+ FTEs) are not allowed to offer coverage through these public marketplaces until 2017.
2. **SHOP (Small Business Health Options Program)** – A public marketplace only open to small employers (generally less than 50 employees, although some states will allow employers with up to 100 employees). These SHOP marketplaces are permitted to be combined with state run public marketplaces, which will be determined on a state-by-state basis. Small employers will be able to offer health insurance through these state SHOP marketplaces, but it is not required. Implementation of the SHOP has been delayed in states with a public marketplace that will be fully or partially run by the federal government. States running their own public marketplace have the option to delay implementation until 2015.
3. **Private** – Employers can purchase health and other types of insurance through private marketplaces, so that employees can choose from various plans.

Plan Sponsor – A designated entity, usually an employer or third party, that sets up a health care or retirement plan for the benefit of employees.

Self-Insured – An employer assumes financial responsibility for claims directly. May or may not contract with an insurance company or third party for claims processing and administration.

References

Essential Health Benefits, Actuarial Value, and Accreditation Standards: Ensuring Meaningful, Affordable Coverage. (November 20, 2012.) Retrieved March 10, 2013, from <http://www.healthcare.gov/news/factsheets/2012/11/ehb11202012a.html>

Miller, Steven T. Shared Responsibility for Employers Regarding Health Coverage. (January 2, 2013.) Retrieved March 10, 2013, from <https://www.federalregister.gov/articles/2013/01/02/2012-31269/shared-responsibility-for-employers-regarding-health-coverage#h-21>