SBA
U.S. Small Business Administration

AFFORDABLE CARE ACT: KEY SMALL BUSINESS PROVISIONS

The Affordable Care Act (ACA) will help small businesses by lowering premium cost growth and increasing access to quality, affordable health insurance. If you're a small employer, the following are some of the ACA provisions that may apply.

Provisions Currently in Effect

Small Business Tax Credits

The small business tax credit helps small businesses afford the cost of health care coverage for their employees and is specifically targeted for those businesses with low- and moderate-income workers. The credit is designed to encourage small employers to offer health insurance coverage for the first time or maintain coverage they already have. Businesses that have fewer than 25 full-time equivalent employees, pay average annual wages below $50,000, and contribute 50% or more toward employees' self-only health insurance premiums may qualify for a small business tax credit of up to 35% to help offset the costs of insurance for tax years 2010 - 2013. Starting this year in 2014, this tax credit goes up to 50% and is available to qualified small businesses who participate in the Small Business Health Options Program (SHOP), described below. Eligible small employers can claim the current credit through 2013, and the enhanced credit can be claimed for a maximum of two consecutive taxable years beginning in 2014 through the SHOP.

Summary of Benefits and Coverage (SBCs) Disclosure Rules

Employers are required to provide employees with a standard Summary of Benefits and Coverage form explaining what their plan covers and what it costs. The purpose of the SBC form is to help employees better understand and evaluate their health insurance options. Penalties may be imposed for non-compliance. The Department of Labor has provided a sample completed SBC that employers may reference.

Medical Loss Ratio Rebates

Under ACA, insurance companies must spend at least 80% of premium dollars on medical care rather than administrative costs. Insurers who do not meet this ratio are required to provide rebates to their policyholders, which is typically an employer who provides a group health plan. Employers who receive these premium rebates must determine whether the rebates constitute plan assets. If treated as a plan asset, employers have discretion to determine a reasonable and fair allocation of the rebate. For more information on the federal tax treatment of Medical Loss Ratio rebates, refer to IRS's FAQs.

W-2 Reporting of Aggregate Health Care Costs

Beginning January 2013 (applicable to 2012 reporting), most employers must report the aggregate annual cost of employer-provided coverage for each employee on the Form W-2. The new W-2 reporting requirement is informational only and it does not require taxation on any health plan coverage. Reporting is required for most employer-sponsored health coverage, including group medical coverage. ***Small Employer Exception***: For 2012 reporting and beyond until further guidance is issued, the W-2 reporting requirement does not apply to employers required to file fewer than 250 Form W-2s in the prior calendar year. To learn more about the requirements, as well as exclusions, visit IRS.gov.

Limits on Flexible Spending Account Contributions

Beginning January 2013, the maximum amount an employee may elect to contribute to health care flexible spending arrangements (FSAs) for any year will be capped at $2500, subject to cost-of-living adjustments. Note that the limit only applies to elective employee contributions and does not extend to employer contributions. To learn more about FSA Contributions, as well as what is excluded from the cap, visit IRS.gov.

Additional Medicare Withholding on Wages
Beginning January 1, 2013, ACA increases the employee portion of the Medicare Part A Hospital Insurance (HI) withholdings by .9% (from 1.45% to 2.35%) on employees with incomes of over $200,000 for single filers and $250,000 for married joint filers. It is the employer's obligation to withhold this additional tax, which applies only to wages in excess of these thresholds. The employer portion of the tax will remain unchanged at 1.45%.

New Medicare Assessment on Net Investment Income
Beginning January 1, 2013, a 3.8% tax will be assessed on net investment income such as taxable capital gains, dividends, rents, royalties, and interest for taxpayers with Modified Adjusted Gross Income (MAGI) over $200,000 for single filers and $250,000 for married joint filers. Common types of income that are not investment income are wages, unemployment compensation, operating income from a non-passive business, Social Security Benefits, alimony, tax-exempt interest, and self-employment income.

Employer Notification of the New Health Insurance Marketplace
Beginning January 1, 2014, consumers, self-employed, and small businesses will have access to affordable coverage through the new health insurance Marketplace (also commonly known as the Exchange). No later than October 1, 2013, employers covered by the Fair Labor Standards Act (generally, those firms that have at least one employee and at least $500,000 in annual dollar volume of business), must provide notification to their employees about the new Marketplace. This notice must be given to all current employees by October 1st, and to each new employee beginning October 1st, regardless of plan enrollment status (if applicable) or of part-time or full-time status. The Department of Labor has provided employers with two sample notices they may use to comply with this rule, one for employers who do not offer a health plan and another for employers who offer a health plan for some or all employees. Refer to DOL's Technical Guidance for more information.

Provisions that begin in 2014

Small Business Health Options Program (SHOP) and Individual Marketplaces
Coverage through the competitive health insurance marketplaces for individuals and small businesses will be in place January 1, 2014, with open enrollment beginning October 1, 2013. The Marketplaces will offer four levels of benefit packages that differ by the percentage of costs the health plan covers. Individuals and the self-employed may qualify for individual tax credits and subsidies on a sliding scale, based on income, through the Marketplaces.

Small businesses with generally 50 or fewer employees will have access to Marketplaces through the Small Business Health Options Program (SHOP). Currently, small businesses may pay on average 18% more than big businesses for health insurance. SHOP will offer small businesses increased purchasing power to obtain a better choice of high-quality coverage at a lower cost. SHOP will also pool risks for small groups and reduce administrative complexity, thereby reducing costs. In 2016, employers with up to 100 employees will be able to participate in SHOP. On federally run SHOP Marketplaces businesses can enroll starting on October 1, 2013 through their brokers or directly through issuers. In state run SHOP Marketplaces generally businesses can enroll starting on October 1, 2013 through their brokers or directly through the SHOP. Stay connected to the latest information on the Marketplaces by going to signup.healthcare.gov.

90-Day Maximum Waiting Period
Beginning January 1, 2014, individuals who are eligible for health coverage will not have to wait more than 90 days to begin coverage. HHS, IRS, and the Department of Labor have issued proposed rules on how employers should apply the 90-day rule.

Workplace Wellness Programs
The Affordable Care Act creates new incentives to promote employer wellness programs and encourage employers to take more opportunities to support healthier workplaces. Health-contingent wellness programs generally require individuals to meet a specific standard related to their health to obtain a reward, such as programs that

provide a reward to employees who don't use, or decrease their use of, tobacco, and programs that reward employees who achieve a specified level or lower cholesterol. Under final rules that take effect on January 1, 2014, the maximum reward to employers using a health-contingent wellness program will increase from 20 percent to 30 percent of the cost of health coverage. Additionally, the maximum reward for programs designed to prevent or reduce tobacco use will be as much as 50 percent. The final rules also allow for flexibility in the types of wellness programs employers can offer. For more information and to view the final rules, visit http://www.dol.gov/ebsa.

Upcoming Provisions in 2015

Employer Shared Responsibility Provisions

Beginning in 2015, employers with 50 or more full-time (or full-time equivalent) employees that do not offer affordable health insurance that provides minimum value to their full-time employees (and dependents) may be required to pay an assessment if at least one of their full-time employees receives a premium tax credit to purchase coverage in the new individual Marketplace. A full-time employee is one who is employed an average of at least 30 hours per week. If a business meets the threshold level of 50 full-time or full-time equivalent employees, or is close to it, it's important to understand how these rules may apply and how the payment amounts could be calculated. ***Note:*** On July 2, 2013, Treasury issued transitional relief to employers covered by these rules indicating that no shared responsibility payments will apply until 2015. Refer to this Notice from the IRS for the latest information on the Employer Shared Responsibility transitional relief for 2014.

Businesses with fewer than 50 employees are generally not affected by the Employer Shared Responsibility rules – that is nearly **96 percent of all firms** in the United States. These smaller employers do not have to pay an assessment if their full-time employees receive premium tax credits in the new Marketplace.

Health Insurance Coverage Reporting Requirements

Also beginning in 2015, the Affordable Care Act provides for information reporting by employers subject to the employer shared responsibility provisions regarding the health coverage they offer to their full-time employees (known as Section 6056 rules). New information reporting by issuers, self-insuring employers, and other parties that provide health coverage also take effect in 2015 (Section 6055 rules). On September 5, 2013, Treasury issued Proposed Regulations that provide further guidance about these provisions and invites stakeholders to submit comments on these proposed rules through early November 2013. The public comments will be taken into account in developing final reporting rules. To read the proposed rules, click here.

ADDITIONAL RESOURCES

The U.S. Small Business Administration's health care web page, www.sba.gov/healthcare, is dedicated to educating small business owners about the Affordable Care Act.

Small business owners can also take advantage of a new, streamlined health care tool, housed at Business USA, to help you find out exactly what you and your employees need to know about the Affordable Care Act. In a few quick steps, you'll understand the essentials of new insurance options and other health care changes.

Healthcare.gov, a web portal maintained by HHS, is the site of the new Health Insurance Marketplace. The small business tab includes information about the SHOP Marketplace for small employers, coverage options, and more. Businesses can stay connected to the latest information on the Marketplaces by signing up for text and email alerts at signup.healthcare.gov.

For more information about the SHOP Marketplace, small businesses can call 1-800-706-7893 (TTY users: 1-800-706-7915), Monday through Friday, 9 a.m. to 7 p.m. EST.