Update on Health Care Reform

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EMPLOYER PENALTY REFRESHER
Basic Rule

An applicable large employer that fails to offer its full-time employees (and their dependents) health coverage that is affordable and provides minimum value may be subject to a penalty if a full-time employee receives a premium tax credit for purchasing individual coverage on the Health Insurance Marketplace.
The Affordable Care Act imposes two types of employer penalties on applicable large employers:

- Penalty “A” – The Failure to Offer Penalty (Sledgehammer)
- Penalty “B” – The Unaffordability Penalty (Mallet)
FINAL REGULATIONS ON EMPLOYER PENALTIES
50-99 Employee Exemption

- Cities and towns with less than 50 full-time equivalent employees are exempt from the employer penalties.
- Cities and towns that employ an average of at least 50 but less than 100 full-time equivalents in 2014 will not be subject to employer penalties in 2015.
- Note: Cities and towns with 50-99 employees will still be required to file Forms 1094-C and 1095-C for 2015 (due in 2016).
Transitional Relief for Very Large Employers

In 2015, a city or town with at least 100 full-time equivalent employees must offer minimum value coverage to at least 70% of its full-time employees (average 30 hours of service per week during the measurement period).

- Failure to comply with the 70% test in 2015 will result in a $2,000 penalty imposed on the employer for every full-time employee, minus 80 (the Sledgehammer).
Transitional Relief – Penalty “A” (The Sledgehammer Test)

- The 70% test provides some flexibility and relief to large employers. However, large employers will still be subject to Penalty B (The Mallet) for each full-time employee who enrolls in the Health Insurance Marketplace and receives a subsidy.
- In 2016, the standard will rise to 95% and the credit will drop to 30 employees.
IRS REPORTING REQUIREMENTS
Overview

- The IRS issued final regulations on March 5, 2014 regarding the employer reporting requirements.
- These reporting requirements will be effective for the 2015 taxable year.
- The first reports will be due in 2016; however, the IRS is permitting voluntary filing in 2015.
Overview

• Filing Forms 1094 and 1095.
• Form 1095-B or 1095-C will be prepared for each applicable employee and filed with the IRS using a single transmittal form (1094-B or 1094-C).
• IRS instructions on reporting are complex.
• Most efficient to break into categories of employer’s health plan and number of employees (small employer / large employer).
Small Employer with Fully Insured Plan

• A small employer is an employer that employs less than 50 full-time equivalent employees.

• The health insurance issuer or carrier is responsible for reporting minimum essential coverage on Form 1094-B and Form 1095-B.
Small Employer with Self-funded Plan

- If a small employer maintains a self-funded plan, the employer is responsible to file Forms 1094-B and 1095-B.
- The Form 1094-B is a basic transmittal form.
- The Form 1095-B is used to report whether all covered individuals receive minimum essential coverage. Includes employees, spouses, dependents and other participants of the plan.
Large Employer Reporting

- Employers with at least 50 full-time equivalent employees will be required to utilize Forms 1094-C and 1095-C.
- Form 1094-C (Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Return) is utilized to determine applicability of Penalty A (Sledgehammer).
- Form 1095-C (Employee Statement) is utilized to calculate Penalty B (Mallet).
Form 1095-C

- Form 1095-C must be provided to all full-time employees and to each employee (full-time or not) who enrolls in employer-sponsored coverage.

- Form 1095-C is complicated. Simplified reporting is available to large employers that offer affordable, minimum value coverage to all full-time employees.
Reporting Deadlines

• Large employers are required to file forms by February 28th by mail or March 31st electronically.
• First returns will be due in 2016: February 29, 2016 / March 31, 2016.
• Employers will need to mail forms to employees at employee’s last known permanent address. Alternatively, the form can be provided to employees electronically if the employee consents in advance.
Penalties

No penalties in 2016 provided that the employer can demonstrate a good faith attempt to comply with the requirements.
How to Prepare

• Must make reasonable effort to obtain social security numbers from employees for spouses and dependents.
• Review applicable forms now to make sure that you will have adequate records to complete in 2016.
• Consider outside service providers to complete filings, but the responsibility for filing remains on the employer.
HEALTH PLAN IDENTIFIER NUMBER
Large health plans must obtain a health plan identifier number (HPID) by November 5, 2014. Small health plans with annual receipts less than $5 million must obtain HPID by November 5, 2015.

Discuss this issue with your insurance company or third party administrator.

Go through the CMS Enterprise Web Portal to access the HPID application.
UPDATE FOR SMALL GROUPS
Community Rating

- The community rating provisions provide that rates for health insurance in the full insured small group and individual markets may not vary based upon health factors. Rates may vary only by:
  - Age (by no more than 3:1 ratio across rating bands established by the Secretary);
  - Tobacco use (by no more than 1.5:1 ratio);
  - Self-only or family enrollment; and
  - Rating area (as specified by state).
Community Rating - Delayed

- On March 5, 2014, the U.S. Department of Health and Human Services extended transitional relief from community rating through October 1, 2016.
- Good news for small groups with positive claims experience.
- Small groups with poor claims experience will be able to elect plans subject to community rating.
HEALTH INSURANCE MARKETPLACE
The State of Indiana elected not to establish an insurance marketplace.

Indiana participates in the federally-facilitated exchange accessible at www.healthcare.gov.
Income Thresholds

- The IRS determined that individuals participating in federally-facilitated exchanges may be eligible for premium tax credits and cost-sharing reductions.

- Household income must be at least 100% of the federal poverty line but not more than 400% of the federal poverty line to be eligible for the subsidies.
  - Individuals (2014): between $11,670 and $46,680
  - Family of 4 (2014): between $23,850 and $95,400
How Much?

- The easiest way to estimate your potential subsidy under the Marketplace is to utilize the Kaiser Family Foundation Subsidy Calculator.
- The calculator is available at http://kff.org/interactive/subsidy-calculator/
Open Enrollment

- The federally-facilitated exchange in Indiana will offer open enrollment annually.
RECENT CASE LAW DEVELOPMENTS
• King v Burwell (Virginia)
• Halbig v Burwell (Washington D.C.)
• Oklahoma v Burwell
• Indiana v IRS
THANK YOU!