

ACA provisions

The Affordable Care Act includes many requirements applicable to group health plans. Some of these requirements are already effective but some of the most significant requirements will become effective in 2014.

Employer group health plan should already be complying with:

- Coverage for young adults to age 26 and Deletion of lifetime & annual dollar limits
- Limits on pre-existing condition exclusions, Summary of benefits/coverage provided to participants and W-2 reporting of cost of coverage

In addition, plans that do not have “grandfathered” status under ACA, are subject to:

- Modified claims and appeals rules and No cost preventative care
- Non-discrimination rules for insured plans

What happens in 2014

Effective in 2014, employers that are treated as “applicable large employers” will have to comply with on the Act and offer employees health plan coverage that complies with ACA or be subject to penalties under the IRC, referred to as “assessable payments.”

There are two types of assessable payments under ACA.

Under one type of assessable payment, if an “applicable large employer” offers health coverage to all employees who work 30+ hours a week and their dependents but the coverage does not qualify as “minimum essential coverage” or the employer offers coverage that is not “affordable” and at least one employee enrolls in the state health insurance exchange for which a premium tax credit or cost sharing reduction is allowed, then the employer subject to “assessable payment” of up to \$3,000 for each affected employee per year.

Another type of payment applies if the large employer fails to offer minimum essential coverage to 95 percent of its fulltime employees and their dependents, regardless of whether it is “affordable” or provides “minimum value” and at least one employee goes to a state health insurance exchange. Under these rules, the employer can be assessed a penalty equal to \$2,000 per year, per full time employee but the first 30 are free.

Who is an “applicable large employer”

It will be very important for each employer to determine if it is an “applicable large employer.” For this purpose, an employer is an “applicable large employer” if the employer employed an average of at least 50 full-time employees on business days during the preceding calendar year. The controlled group rules of the IRS apply in making this determination.

There is an exception to the definition of “applicable large employer” for employers whose work force exceeded 50 full time employees only because of “seasonal workers” employed for 120 or fewer days during calendar year.

The determination for a particular calendar year is based on the employer’s average number of employees during the prior year. However, for 2014 there is a special transitional rule that allows an employer to determine if it is an applicable large employer using any period of six consecutive calendar months during calendar year 2013 rather than using the entire year.

What is affordable coverage

For a large employer, it will also be necessary to determine if the coverage is “affordable.” If the coverage is not affordable, and an employee obtains coverage on an exchange, the employer will be liable for an assessable payment.

Coverage is affordable if the employee’s required contribution does not exceed 9.5 percent of the as set forth in box 1 of the W-2. The coverage to which this rule applies is the employee portion of the self-only premium for the employer’s lowest cost coverage that provides minimum value.

Conclusion

Employers who wish to avoid liability under the assessable payment rules should be analyzing their health plans and employee populations to determine if they already comply with the new rules and, if not, what changes they will have to make before January 1, 2014.

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