

Health Care Reform: Critical Provisions for Employers

Now that the Supreme Court has upheld the Affordable Care Act, employers must direct their attention to the key provisions that affect their businesses going forward. Employers will need to focus on their group health plans and determine compliance with the reform's requirements. Furthermore, employers must be prepared to communicate the applicable provisions with their employees. The Supreme Court's Ruling did not change any employer responsibilities under the Affordable Care Act already in effect. Therefore, employers should continue to comply with the Act's provisions and prepare for the implementation of provisions that are to take effect in the future. This article provides a summary of these key employment-related provisions, and the dates such provisions come into effect.

Employer "Shared Responsibility" Tax. Effective January 1, 2014, employers with more than 50 employees that do not offer coverage and have at least one full-time employee taking advantage of federal premium assistance must pay a fee of \$2,000 per full-time or full-time equivalent employee. An employer's first 30 employees are exempt. Employers with more than 50 employees that do offer coverage, but have at least one full-time employee taking advantage of federal premium assistance and have received a tax subsidy (where the employee's share of employer coverage exceeds 9.5% of household income or the plan pays less than 60% of the coverage value), must pay the lesser of \$3,000 per employee receiving a premium credit or \$2,000 for each full-time employee (first 30 employees are exempt). The law exempts employers with less than 50 employees from any penalties. The fees on employers are **not** tax deductible.

Automatic Enrollment. Effective January 1, 2014, employers with more than 200 employees are required to automatically enroll employees in health insurance plans offered by the employer. However, employees have the right to opt out of coverage.

Notice to Employees. Effective March 1, 2013, employers are required to provide written notice to all current and future employees, informing them of the existence of an exchange (information on state health insurance exchanges will be provided in our next newsletter). Employers must also inform employees of their potential eligibility for premium tax credits if the employer does not provide minimum essential coverage and the employee purchases a qualified health plan from the exchange.

Quality of Care Reporting. Effective January 1, 2014, employers with more than 50 employees must submit a report to the Secretary of Health and Human Services assessing the health insurance coverage they provide. The report must include (i) whether the employer offers full-time employees minimum essential coverage; (ii) the name(s) of each employee and dependent covered under the plan; (iii) the number of full-time employees; (iv) the length of any waiting period; (v) the premium for the plan's lowest cost option; and (vi) the employer's share of the cost. A summary of the information provided to the Secretary must be provided to each full-time employee.

Summary of Benefits & Coverage. Effective Sept. 23, 2012, health insurers and self-insured group health plans are required to provide a Summary of Benefits and Coverage to all individuals enrolling in medical coverage. The Summary of Benefits and Coverage acts as an explanation to plan participants and beneficiaries in addition to the summary plan description.

Employer W-2 Reporting. Effective for the 2012 reporting year (2012 Form W-2), employers are required to report the cost of employer-provided health care coverage on the Form W-2. Reporting had been optional for all employers for the 2011 Forms W-2. IRS guidance provides for relief from reporting for qualified smaller employers—at least until further guidance is issued.

Flexible spending arrangements. Effective Jan. 1, 2013, any benefits provided under a cafeteria plan through employer contributions to a flexible spending account, will not be considered a qualified benefit unless employee salary reductions under the plan to the account are limited to \$2,500.

Retiree prescription drug expenses. Jan. 1, 2013 employers can no longer take a tax deduction for employer-provided retirement prescription drug coverage.

High Cost Health Plans. Beginning in 2018, an excise tax will be imposed

on all employer-sponsored health plans with values that exceed \$10,200 for individual coverage and \$27,500 for family coverage. **Wellness Incentives.** Effective January 1, 2014, employers may offer employee rewards of up to 30% of the cost of coverage for participating in a wellness program that meets certain health-related standards. Rewards may be in the form of premium discounts, waivers of cost-sharing requirements, or benefits that would otherwise not be provided. Employers must offer an alternative standard for individuals for whom it is unreasonably difficult or inadvisable to meet the standard. The reward limit may be increased to 50% of the cost of coverage if deemed appropriate by Secretaries of Labor, Health and Human Services, and the Treasury. **Small Business Tax Credit.** Effective for tax years 2014 and later, a tax credit increase up to 50% of an employer's contribution toward the employee's health insurance premium, up from the current 35%, is available for eligible small businesses that purchase coverage through the state exchange only. A comprehensive summary of the Small Business Tax Credit will be available in next month's newsletter. We remain actively engaged in review and monitoring of all these provisions, issues, and the regulatory process and stand ready to assist employers to understand and plan for the effects of the continued implementation of the Affordable Care Act.