

The Affordable Care Act What's Ahead for Employer's in 2015 ?

Barbara C. Oberman, MAM, CHRS, CIA, GBDS

Barbara C. Oberman Insurance Services, Inc.

March 20 & 27, 2015

Today's Topics

- Health Care Reform Refresher
- The Impact of Health Care Reform on Employers and Individuals
- The Role of the Insurance Exchanges
- Health Care Reform Implications for Small Business
- The Penalties for Large Employers
- Employer Administrative & Reporting Responsibilities
- What's Ahead?

Time for a Refresher!



... On the Employer-Shared Responsibility Mandate

- Large employers with 100+ employees must offer coverage that is affordable and meets minimum value standards or pay penalties
- Originally effective January 1, 2014
- Enforcement delayed until January 1, 2015
- Additional enforcement delay for employers with 50-99 employees
- Small businesses with less than 50 full-time employees are not required to offer coverage or fill out any reporting forms

Terms to Know

- Minimum Essential Coverage – meets the individual penalty minimum standards and Prong “A” penalty of Employer mandate
- Minimum Value – Large employer 60% standard to avoid Prong “B” penalty
- Actuarial Value – Small Employer – Metal level
- Essential Health Benefits – 10 categories in Small Group Market; no maximums in Large Group

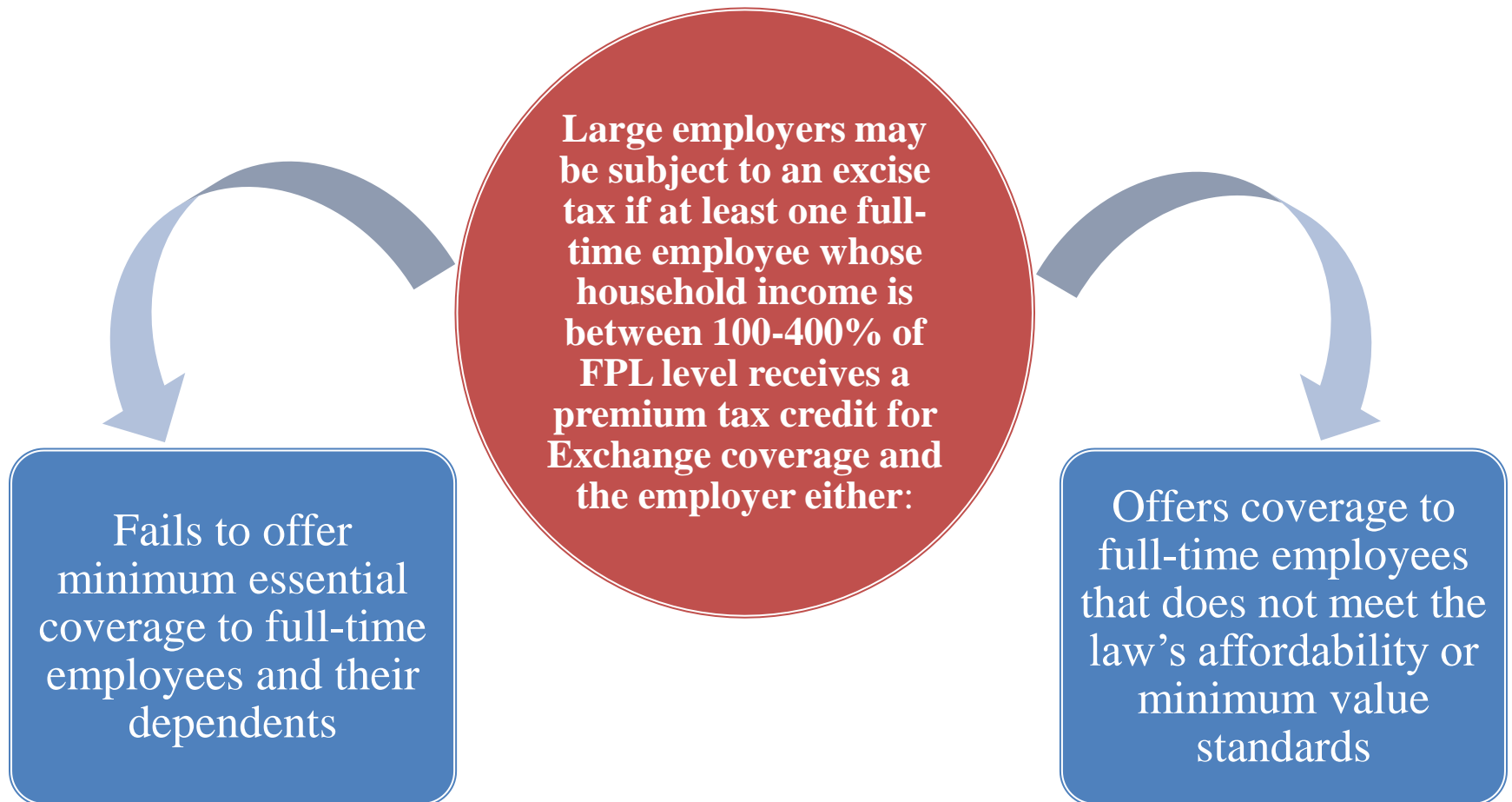
Are You an Applicable Large Employer?

- Employs an average of at least **50** full-time employees (including full-time equivalents) during the preceding calendar year.
- All employees are counted (with limited exception for certain seasonal workers) for determining full-time status, including those eligible for MediCal)
- Full-time employees work **30** hours per week
- **Note:** Aggregation (control group) rules apply
- **Note:** Control group rules are complicated
- **Note:** Reporting obligation rests with each ALE member
- **Note:** As part of IRS reporting, must disclose if you are part of a control group and identify the members

What About Part-Time Employees?

- Part-time employees (work an average less than 30 hours/week)
- **ARE** counted as Full-Time Equivalents for purposes of determining if applicable large employer subject to penalties
- Part-time employees are **NOT** counted for purposes of calculating actual penalty amount

What Triggers the Penalty?



Calculating the Penalties

the “A” Penalty

- The “Big” penalty for **Not Offering** minimum essential coverage
 - **\$2,000** times the **entire ACA FTE Workforce** (minus the first 80/2015 only – after 2015 it's minus the first 30)
- **How it is triggered**
 - Don't offer Minimum Essential Coverage at all, or
 - Offer Minimum Essential Coverage but to less than 70% of your ACA FTEs and their dependents, and (after 2015 coverage must be offered to 95% of ACA FTEs and dependents)
 - Have just one subsidy-eligible ACA Full Time Employee purchase coverage from the Exchange

Calculating the Penalties

the “B” Penalty

- The “Smaller penalty”-- **\$3,000 per ACA FTE receiving subsidized Exchange coverage**
- **How it is triggered**
 - If the employer offers Minimum Essential Coverage that is **Not Affordable** or not of **Minimum Value** and
 - Has a subsidy-eligible ACA FTE purchase coverage from Exchange
- Although the amount per ACA FTE is larger, it is payable only for those purchasing from the Exchange and receiving a subsidy (not the entire ACA FTE workforce)

What is Affordable Coverage?



What Is Affordable Coverage?

- Coverage is affordable if employee's required contribution does not exceed 9.5% of the employee's income for the taxable year; safe harbors;
 - **Current year's Box 1 W-2 wages for year , or**
 - **An amount equal to the employee's hourly rate of Pay:**
Employee's monthly contribution for employer's lowest-cost self-only coverage does not exceed 9.5% of employee's hourly rate of pay multiplied by 130 (monthly salary for salaried employees), or
 - **The federal Poverty level for a single person (can use the federal poverty level in effect six months prior to the beginning of the plan year)** Employee's monthly contribution for employer's lowest-cost self-only coverage does not exceed 9.5% of Federal poverty level for single individual for applicable year, divided by 12

What Constitutes Minimum Value?



A plan that covers at least 60% of the total allowed cost of benefits that are expected to be incurred under the plan is considered to provide minimum value

Important Considerations

- Employer may offer more than one plan to employees
- Only one of the plans needs to meet the requirements for affordability and minimum value
- Affordability is defined only considering the cost to the employee, not any required contributions for family coverage

... And Some Good News!



New Consumer Protections

- Eliminates medical underwriting
- Preventive care covered without cost sharing (new plans)
- Ban on lifetime limits
 - Insurance policies can no longer set lifetime limits on how much they will pay for an individual's medical bills. People will not have to go into debt because their coverage runs out
- Mandatory coverage for clinical trials
- Curbs on cancelling policies

New Consumer Protections

- Premium rebates if insurers underspend on patient care
 - Carriers must meet new ACA medical loss ratio requirements .
 - More than 12.8 million individuals and businesses got back more than \$1.1 billion in rebates in 2012 from insurance companies that underspent on medical care
- Mandates dependent coverage for adult children until the age of 26, not eligible for group coverage regardless of dependent status, employment or residence
- Less expensive prescriptions for seniors
 - Older adults who reach the “donut hole” – the point at which they must start paying the full drug cost – in 2012 got a 50% discount when buying brand name drugs covered by Medicare Part D and 14% on generic drugs.

The Individual Mandate



And Now. . .

- Starting 1/1/2014 most individuals, including senior citizens, must buy and maintain health insurance or pay an annual tax penalty.
- Individuals are required to have Minimum Essential Coverage for every month of the year
- Adult or married couple who claim a child or individual as a dependent for federal tax purposes is responsible for making the payment

Premium Tax Credits for Individuals

- Health insurance premium tax credits for purchase of insurance through an Exchange
 - For those not eligible for coverage through an employer or government program
 - U.S. citizens or lawfully present
 - Have a modified adjusted gross household incomes between 100% and 400% of the federal poverty level
- Not eligible if enrolled in employer program unless it is not affordable or does not provide minimum value
- Exchanges are the only place where tax credits or cost sharing subsidies are available

Taxpayers and the IRS



Calculating the Penalties

PENALTY TAX AMOUNTS		
2014	2015	2016
\$95 per adult and \$47.50 per child (up to \$285 per family) OR 1% of family income, whichever is greater	\$325 per adult and \$162.50 per child (up to \$975 per family) OR 2% of family income, whichever is greater	\$695 per adult and \$347.50 per child (up to \$2,085 per family) OR 2.5% of family income, whichever is greater
Average Bronze Plan	Average Bronze Plan	Average Bronze Plan
Individual: \$2,448 Family: \$12,240	Not available	Not available

Marketplace & Affordability

- Can an employee get a premium tax credit if employer group coverage is available?
 1. Does the employee's cost for the lowest cost option for self-only coverage **exceed** 9.5% of employee's income?
- If yes, then employee can receive a subsidy in the Exchange.
- If no, then employee is blocked from receiving a subsidy in Exchange and could be penalized for no coverage

Employer Communications with Employees, Exchanges and the IRS

Step 1

- Employer provides employees with information about coverages and Exchanges

Step 2

- Employee provides Exchange With information to determine eligibility for the premium tax credit

Step 3

- Exchange verifies information and makes preliminary eligibility determination

Step 4

- Exchange notifies employer that employee may receive a premium tax credit
- Employer can appeal

Step 5

- Employer files information with IRS and employee
 - IRS Code Sec. 6056
 - Employee files personal return

Step 6

- Assessment of employer tax penalty with right to appeal

Healthcare Reform Impact on Small Employers



Questions for Small Business

- Am I required to offer health insurance to our employees?
- Can I reimburse employees for individual coverage?
- What are the new Marketplace options?
- Is there tax credit available for small employers?

New Rules on Paying Individual Premiums

- Can I reimburse employees for individual coverage?
- New rules for paying individual premiums
IRS Notice 2015-17
- Small businesses with reimbursement plans in place will not be penalized unless they maintain them beyond June 2015
- Also off the hook for having to file Form 8928

New Underwriting Impact on Premiums

- The criteria for individual and small group insurance underwriting has changed with a focus on only four areas:
 - Age (3:1 ratio for adults using standard age bands set up Health and Human Services and the National Association of Insurance Commissioners)
 - Family size
 - Geography (California established 19 rating areas)
 - Same underwriting rules apply inside and outside Marketplace

Changes to Small Business Tax Credit

- Available to small businesses and tax-exempt organizations
Primarily for businesses with 25 or fewer workers with average income of \$50,000 or less
- For 2014, the credit percentage increased from 35 percent to 50 percent of employer-paid premiums. For tax-exempt employers, increased to 35 percent
- Small businesses may claim the credit for only two consecutive taxable years beginning in tax year 2014 and beyond

The Employer Mandate



When is the Employer Mandate in Effect?

- General Rule: Employer Mandate applies by calendar year, not plan year
- Large employers with 100 or more full-time employees must offer coverage to employees and dependents starting in 2015 or risk paying a tax penalty
- Employers with 50-99 employees must offer coverage and comply by 1/1/2016
 - Must still comply with new employer reporting requirements on employees and what was offered in 2015
 - Not subject to any penalties until 2016
 - All other obligations remain intact

New Administrative & Reporting Responsibilities



ACA Plan Changes

All Plans

- Waiting periods cannot exceed 90-days
- Employer Limitations on Paying Individual premiums Reinforced
- Proposed Changes to Summary Plan Descriptions (SBC's) - would apply on or after September 1, 2015
 - Meant to clarify how a plan or administrator provides SBC
 - Shortens SBC template

ACA Plan Changes

Cafeteria Plans

- For **taxable years beginning in 2015**, the annual limit increases to \$2,550.
- ***Cafeteria plan rules*** have been modified by the IRS in Notice 2014-55 to allow additional ACA-related mid-year election changes.
 - Under current rules, a cafeteria plan cannot provide participants an option to revoke their group health elections solely to enroll in ACA coverage.
- Determine whether you will allow employees to carry over up to \$500 of unused health FSA amounts to use in the following plan year under the “use-it-or-lose-it” rule

Are Employers Required to Provide Employees with Proof of Coverage for 2014?

- Final answer **NO**
- Individual only must check box
- Proof of coverage not required
- File Form 8965 to claim exemption/determine penalty if coverage not maintained

Employer Reporting Core Concepts

- ACA added two sections 6055 and 6056 to the Internal Revenue Code
 - Section 6055 is related to enforcement of the Individual Mandate
 - Section 6056 is related to enforcement of the Employer Mandate
- The new sections require health insurers and/or employers to report coverage
- Voluntary for employers in 2014
- Required for 2015 and due early 2016

What Do Employers Have to File with the IRS?

- ALE members must file a transmittal form. Along with an individual statement for each full-time employee.
- If fully insured, ALE member must complete and file:
 - Form 1094-C (Transmittal)
 - Form 1095-C (Employee Statement) for each F/T employee
 - Complete Parts 1 and II
 - Self-funded ALE member also completes Part III of Form 1095-C (if fully insured, the insurer provides this information on Forms 1094-B and 1095-B)

Why Do We Have to Do This?

- The IRS needs to know:
 - Whether individuals have health coverage
 - Whether individuals who obtained coverage from the Marketplace (Covered CA) are entitled to a subsidy (or premium tax credit)
 - Whether ALE members owe a shared responsibility penalty (a §4980H(a) or (b) penalty)
- These forms provide the data needed to make these determinations

Who is Required to Report?

- An ALE with at least 50 full-time employee's or full-time equivalents during the preceding calendar year, and
- ALE's that offer fully-insured or self-insured group health plans
- Employer's with at least 50 FTE's in a controlled group



Covered CA

- Form 1095-A (coverage statement from Covered CA to enrollee)

Insurer

- Form 1094-B (insurer transmittal to IRS)
- Form 1095-B (coverage statement from insurer to enrollee)

Employer

- 1094-C (employer transmittal to IRS)
- 1095-C (coverage statement from employer to F/T employee)

Employer Resources

- Form 1094-C & 1095-C Instructions
- Publication 5196

Employee Taxes

- Form 1040 (see lines 46, 61, and 69)
- Form 1095-A or 1095-B and 1095-C (proof of coverage)
- Form 8692 (to claim premium tax credit)
- Form 8965 (to claim an exemption from individual mandate)

Small Business Reporting

	No Coverage Offered	Fully Insured	Self-Funded
Small Employers/Non-ALEs (fewer than 50 FT/FTEs are not an ALE Member)	The employer does not need to provide any 1095 Forms (B or C). No IRS Forms 1095-B or C will be issued by any party.	The employer does not need to provide any 1095 Forms (B or C) . The INSURER will provide a separate IRS Form 1095-B directly to each primary insured	You must provide an IRS Form 1095-B to all covered participants. No Form 1095-C will be issued by any party.

Large Business Reporting

	No Coverage Offered	Fully Insured	Self-Funded
Applicable Large Employers (ALEs) (50 or more FT/FTEs or an ALE Member)	<p>The employer must provide an IRS Form 1095-C (Parts I & II only) to every full-time employee regardless of eligibility.</p> <p>No IRS Forms 1095-B or C will be issued by any party.</p>	<p>The employer must provide an IRS Form 1095-C (Parts I & 2 only) to every full-time employee regardless of eligibility.</p> <p>The INSURER will provide a separate IRS Form 1095-B directly to each primary insured</p>	<p>The employer must provide IRS Form 1095-C (Part I, II & III) to every full-time employee regardless of eligibility as well as any other primary insured actually covered by the plan (part-time employee, retiree, etc.)</p> <p>No Form 1095-B will be issued by any party.</p>

Back at the Supreme Court



King vs. Burwell

- The case is one of this year's most important news subjects. It has the potential to roll back a major portion of the ACA
- It has the potential to roll back a major portion of the ACA — the subsidies that some 7 million middle-income people now receive to buy health insurance.
- Without those people in the insurance markets prices are likely to rise for everyone else . . .

Political Landscape



GOP Proposed Replacement Plan

- February 2015 - Senate Republicans announce “replacement plan” for ACA
 - Replaces individual and employer mandate
 - Continues to prohibit pre-existing condition exclusion
 - Eliminates Federal Exchange/allow State exchanges

Potential Topics of 2015 Congressional Action

- Targeted PPACA repeal and change measures that focus particularly on aspects of the law that impact employers
 - 40 Hour Bill
 - Employer Reporting
 - Scope of employer mandate (50-99)
 - Cadillac Plan Excise Tax on employer plans valued at over \$10,200 for individuals and \$27,500 for families - 2018

Next Steps

- Review your Benefits Program, analyze the cost and benefits of your current program
- Review your Administrative Procedures
 - Review plan documents and your Employee Handbook
 - Check limits on your FSA contributions
 - Distribute required model notices and SBC's
 - Provide new employees with written notice about Exchanges
 - Review IRS reporting forms and instructions this year
- Build a team to bring together senior executives, payroll, accounting, legal, and benefits advisors
 - Consider payroll systems, HRIS systems and vendors

Resources

- For Small Business Tax credit information visit [http://www.irs.gov/uac/Small-Business-Health-Care-Tax - Credit-for-Small-Employers](http://www.irs.gov/uac/Small-Business-Health-Care-Tax-Credit-for-Small-Employers)
- For Covered California information and tax calculator visit:
 - http://www.coveredca.com/news/PDFs/CC_Health_Plans_Booklet.pdf
- [Affordable Care Act Tax Provisions - IRS.gov](http://www.irs.gov/Affordable-Care-Act/Affordable-Care-Act-Tax-Provisions)
- <http://www.irs.gov/Affordable-Care-Act/Affordable-Care-Act-Tax-Provisions>
- Marilyn Monahan, Monahan Law Offices

Questions?

Barbara C. Oberman, MAM, CHRS, CIA, GBDS

Barbara C. Oberman Insurance Services, Inc.

22141 Ventura Blvd., Suite 304, Woodland Hills, CA 91364

Direct: 818-436-2703; Mobile: 818-585-2384

Barbara@bobermaninsurance.com

www.bobermaninsurance.com

Ca Lic # 0821399

