



# Health Care Reform Provisions Small Businesses ( $\leq 25$ Employees)

Health care reform, also known as the Affordable Care Act (ACA), will have important effects on small businesses with 25 or fewer full-time equivalent employees. Several provisions in the new law pose strategic issues for employers, and this means businesses must make key decisions regarding health care benefits for their employees, followed by both appropriate implementation actions and adequate communications. Key provisions outlined by the U.S. Small Business Administration include:

**Small Business Tax Credits:** If your business employs 25 or fewer full-time equivalent employees with average annual wages of less than \$50,000, your business may be eligible for the Small Business Health Care Tax Credit. Starting January 1, 2014, small business tax credits will expand to a maximum of 50 percent of a small business' premium costs for two consecutive years.<sup>1</sup>

**Small Business Health Option Program (SHOP) Marketplace:** Small employers with 50 or fewer full-time equivalent employees are eligible to participate in the SHOP Marketplace in 2014. Eligible employers that choose to offer insurance through the SHOP Marketplace are required to offer SHOP insurance coverage to all full-time employees. Starting in 2015, the SHOP Marketplace will provide a premium aggregation service and will send a single invoice to the employer. The SHOP Marketplace will offer two models:

1. Employer-choice (*available in 2014*): The employer selects the Qualified Health Plan (QHP) and employees can then choose from the employer's selected options.
2. Employee-choice (*delayed until 2015*): The employer selects a metal level of coverage and employees can select from any QHP within that metal level through the SHOP Marketplace.

*Note: States may choose to open the Marketplace only to employers with 100 or fewer employees for the first two years, but all must open to employers with 100 or fewer employees by 2016. The federal Marketplace and almost all states are currently using 50 to define small business.*

**Summary of Benefits & Coverage (SBC):** An SBC must be provided to all applicants and enrollees before enrollment or re-enrollment. The SBC must provide an accurate description of the benefits and coverage under the applicable plan or coverage. This requirement applies to group health plans (both insured and self-insured) and health insurance issuers offering group or individual health insurance coverage.<sup>2</sup>

**Medical Loss Ratio Rebate Distribution:** Major medical insurers that do not meet new medical loss ratio (MLR) requirements are required to issue rebates to policyholders by August 1st every year (began in 2012). In most cases, it is the employer's responsibility to distribute the participant portion within three months of receiving the rebate. The details on distribution depend on the type of plan offered (e.g., church plan, ERISA, etc.).<sup>3</sup>

**Flexible Spending Account (FSA) Limits:** For cafeteria plan years beginning on and after Jan. 1, 2013, employer-sponsored cafeteria plans must limit employee annual salary reduction contributions to health flexible spending arrangements to \$2,500. The \$2,500 limit applies to employee participants on a plan-year basis, and will be indexed for cost-of-living adjustments for future plan years.<sup>4</sup>

*Note: The limit does not apply to certain employer non-elective health FSA contributions, or to any contributions or amounts available for reimbursement under other types of FSAs (such as a dependent care FSA), health savings accounts (HSAs), health reimbursement arrangements (HRAs), or to salary reduction contributions to cafeteria plans used to pay an employee's share of health coverage premiums.*

**Additional Medicare Withholding on Wages:** A 0.9 percent additional Medicare tax raises the Medicare tax rate for certain earners from 1.45 percent to 2.35 percent. The additional Medicare tax applies to an individual's wages, compensation, and self-employment income that exceeds a threshold amount based on the individual's filing status (\$250,000 for married taxpayers who file jointly, \$125,000 for married taxpayers who file separately, and \$200,000 for all other taxpayers). It is paid solely by employees and does not have to be matched by employers; however, the employer is responsible for withholding the additional Medicare tax from wages or compensation paid to an employee in excess of \$200,000 in a calendar year.<sup>5</sup>



**New Medicare Assessment on Net Investment Income:** A new 3.8 percent Net Investment Income Tax is applied to individuals, estates and trust with net investment income and modified adjusted gross income above certain thresholds (\$250,000 for married taxpayers who file jointly and qualifying widow(er) with dependent child, \$125,000 for married taxpayers who file separately, and \$200,000 for all other taxpayers). Investment income may include interest, dividends, capital gains, rental and royalty income, non-qualified annuities, income from businesses involved in trading of financial instruments or commodities, and businesses that are passive activities to the taxpayer.<sup>6</sup>

**Waiting Period Limits:** Beginning January 1, 2014, the ACA restricts waiting periods to a maximum of 90 days for group health plans and group health insurance issuers.<sup>7</sup>

**Required Contribution to the Temporary Reinsurance Program:** During the first three years post reform (2014–2016), a temporary reinsurance program for the non-grandfathered individual insurance market will be funded by a required contribution from all group major medical plans. The per capita amount is paid for each enrollee by the insurer or third-party administrators on behalf of self-funded plans.<sup>8</sup>

**Employer Wellness Incentives:** Health care reform increases the maximum permissible reward under a health-contingent wellness program from 20 percent to 30 percent of the cost of individual health coverage, and also increases the maximum reward to as much as 50 percent for programs designed to prevent or reduce tobacco use. Generally, a health-contingent wellness program requires individuals to meet a specific health standard to gain a reward. Examples include: a reward for not using or decreasing use of tobacco, or a reward for achieving a specified cholesterol level or weight.<sup>9</sup>

**Health Insurance Coverage Reporting:** Self-insured employers must report information to the IRS on the employees receiving coverage, dates of coverage and other information the Department of Health and Human Services (HHS) may require. They must also identify the employer, the employer-paid portion of the premium and other information HHS may require with respect to the small employer tax credit. Statements are to be provided annually to employees by January 31<sup>st</sup>. The annual reporting begins in 2016 for the 2015 plan year.<sup>10, 11</sup>

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As you continue to navigate health care reform, you can rely on Aflac to provide updates and helpful information at: [aflac.com/insights](http://aflac.com/insights). To learn more about coverage available in your state, visit: [healthcare.gov](http://healthcare.gov), [sba.gov/healthcare](http://sba.gov/healthcare), [ccio.cms.gov](http://ccio.cms.gov) and [irs.gov](http://irs.gov).

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## Sources

- <sup>1</sup> Internal Revenue Service (2013). Small Business Health Care Tax Credit for Small Employers, accessed March 5, 2013, from [irs.gov/uac/Small-Business-Health-Care-Tax-Credit-for-Small-Employers](http://irs.gov/uac/Small-Business-Health-Care-Tax-Credit-for-Small-Employers).
- <sup>2</sup> Federal Register (2012). Summary of Benefits and Coverage and Uniform Glossary, accessed on September 25, 2012, from [gpo.gov/fdsys/pkg/FR-2012-02-14/pdf/2012-3228.pdf](http://gpo.gov/fdsys/pkg/FR-2012-02-14/pdf/2012-3228.pdf).
- <sup>3</sup> Internal Revenue Service (2012). Medical Loss Ratio (MLR) FAQs, accessed on September 25, 2012, from [irs.gov/uac/Medical-Loss-Ratio-\(MLR\)-FAQs](http://irs.gov/uac/Medical-Loss-Ratio-(MLR)-FAQs).
- <sup>4</sup> Internal Revenue Service (2012). Section 125 Cafeteria Plans, accessed on September 25, 2012, from [irs.gov/pub/irs-drop/n-12-40.pdf](http://irs.gov/pub/irs-drop/n-12-40.pdf).
- <sup>5</sup> Internal Revenue Service (2013). Questions and Answers for the Additional Medicare Tax, accessed on September 27, 2013, from [irs.gov/Businesses/Small-Businesses-&Self-Employed/Questions-and-Answers-for-the-Additional-Medicare-Tax](http://irs.gov/Businesses/Small-Businesses-&Self-Employed/Questions-and-Answers-for-the-Additional-Medicare-Tax).
- <sup>6</sup> Internal Revenue Service (2012). Net Investment Income Tax FAQs, accessed on March 6, 2013, from [irs.gov/uac/Newsroom/Net-Investment-Income-Tax-FAQs](http://irs.gov/uac/Newsroom/Net-Investment-Income-Tax-FAQs).
- <sup>7</sup> U.S. Department of Labor (2013). Frequently Asked Questions from Employers Regarding Automatic Enrollment, Employer Shared Responsibility, and Waiting Periods, accessed March 5, 2013, from [dol.gov/ebsa/newsroom/tr12-01.html](http://dol.gov/ebsa/newsroom/tr12-01.html).
- <sup>8</sup> Federal Register (2012). 45 CFR Part 153, accessed on September 27, 2013, from [gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/2012-6594.pdf](http://gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/2012-6594.pdf).
- <sup>9</sup> Federal Register (2013). 45 CFR Parts 146 and 147, accessed on September 27, 2013, from [gpo.gov/fdsys/pkg/FR-2013-06-03/pdf/2013-12916.pdf](http://gpo.gov/fdsys/pkg/FR-2013-06-03/pdf/2013-12916.pdf).
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- <sup>11</sup> Internal Revenue Service (2013). Transition Relief for 2014 Under §§ 6055 (\$ 6055 Information Reporting), 6056 (\$ 6056 Information Reporting) and 4980H (Employer Shared Responsibility Provisions). Accessed on August 21, 2013, from [irs.gov/pub/irs-drop/n-13-45.PDF](http://irs.gov/pub/irs-drop/n-13-45.PDF).