



# Health Care Reform Provisions

## Large Employers (50+ Employees)

Health care reform, also known as the Affordable Care Act (ACA), will have important effects on employers with 50 or more 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:

**Shared Responsibility/Employer Mandate (i.e. “Pay or Play”):** Employers with 50 or more full-time equivalent employees will be subject to a shared responsibility payment if the employer fails to offer affordable minimum value coverage and at least one full-time employee obtains a premium tax credit or cost-share reduction through the Health Insurance Marketplace. The employer’s coverage must be offered to substantially all full-time employees and their dependents.<sup>1,2</sup>

*Update: On Feb. 10, 2014, the federal government announced a delay to the employer shared-responsibility penalty, giving employers time to transition into the new rules. Given this delay, starting in 2015 businesses with 100 or more full-time equivalent employees need to provide affordable, minimum value health care coverage to 70 percent of all full-time employees and their dependents, unless the employer qualifies for 2015 dependent coverage transition relief, or face a penalty.*

*In 2016, the 70 percent threshold is increased to 95 percent, and the shared responsibility penalties will also apply to employers with 50 or more full-time equivalent employees.*

**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>3</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>4</sup>

**W-2 Reporting:** To help show how much an employer contributes toward an employee’s health care coverage, employers that issued 250 or more W-2’s in the prior year are required to report the total aggregate cost of major medical health benefits and certain pre-tax funded supplemental health coverage provided to each employee on the employee’s W-2 Forms. This information will be reported in Box 12, using Code DD. The reporting is for informational purposes only and has no tax impact to the employer. Reporting is optional for employers who file fewer than 250 W-2s until further guidance is issued by the IRS.<sup>5</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>6</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>7</sup>

**New Medicare Assessment on Net Investment Income:** A new 3.8 percent Net Investment Income Tax applies to individuals, estates and trusts 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>8</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>9</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>10</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>11</sup>

**Health Insurance Coverage Reporting:** Employers subject to shared responsibility standards and self-insured employers must report information to the IRS on the employee receiving coverage, dates of coverage, the employer paid portion of the premium, and other information the Department of Health and Human Services (HHS) may require. 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>1,12</sup>

## Sources:

- <sup>1</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).
- <sup>2</sup> Congressional Research Service (2010). Summary of Potential Employer Penalties under the Patient Protection and Affordable Care Act (ACA), accessed on November 9, 2012, from [ncsl.org/documents/health/EmployerPenalties.pdf](http://ncsl.org/documents/health/EmployerPenalties.pdf).
- <sup>3</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>4</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>5</sup> Internal Revenue Service (2012). Form W-2 Reporting of Employer-Sponsored Health Coverage, accessed on September 25, 2012, from [irs.gov/uac/Form-W-2-Reporting-of-Employer-Sponsored-Health-Coverage](http://irs.gov/uac/Form-W-2-Reporting-of-Employer-Sponsored-Health-Coverage).
- <sup>6</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>7</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>8</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>9</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>10</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>11</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).
- <sup>12</sup> Internal Revenue Service (2012). Request for Comments on Reporting of Health Insurance Coverage, accessed March 5, 2013, from [irs.gov/pub/irs-drop/n-12-32.pdf](http://irs.gov/pub/irs-drop/n-12-32.pdf).

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