

Health Care Reform Essentials for Businesses

Important details for navigating the Affordable Care Act



Preparing to implement health care reform

On March 23, 2010, the Patient Protection and Affordable Care Act (ACA), commonly known as health care reform, was officially signed into law. Since that time, health care reform and its impact on businesses and individuals continues to evolve. With the clock ticking down to implementation, it is imperative businesses understand how they will be affected and are prepared to make strategic health care decisions.

Health care concerns are not new. In fact, health care spending has exceeded U.S. economic growth in every recent decade.¹ Rising costs, along with an increasingly complex health care system, make it even more important for businesses and individuals to have a clear understanding of their health care benefits, to make smart benefits choices, and to wisely manage their health care dollars.

Aflac's Health Care Essentials will help you understand the:

3

Essential Questions Every Business Must Ask in 2014

7

Important Facts About Health Insurance Marketplaces (Exchanges)

5

Key Health Care Reform Dates

As details of the new health care reform legislation are established, you can rely on Aflac to provide you with ongoing updates at aflac.com/insights.

Disclaimer: This material is intended to provide general information about an evolving topic and does not constitute legal, tax or accounting advice regarding any specific situation. Aflac cannot anticipate all the facts that a particular employer or individual will have to consider in their benefits decision-making process. We strongly encourage readers to discuss their HCR situations with their advisors to determine the actions they need to take or to visit healthcare.gov (which may also be contacted at 1-800-318-2596) for additional information.

3

Essential Questions Every Business Must Ask in 2014

Health care costs continue to rise, and the Affordable Care Act (ACA) has begun to fuel changes that are difficult for businesses to ignore. As the time for certain employer requirements draws near, businesses face important decisions about workforce health care coverage and employer-sponsored benefits. Consider three essential questions to help make more informed decisions for your workforce and your business.

1:
Should I offer employer
provided coverage or not?

2:
How much can my
business afford to spend?

3:
Which strategy will
I choose?

► **Essential Question 1:**
Should I offer employer provided coverage or not?

Most business leaders agree health benefits offer employees peace of mind and protection. Businesses large and small rely on health benefits to provide a unique competitive-edge in the battle to attract and retain talented workers.

Whether your business is a long-time employee benefits provider, or you are considering employer-sponsored benefits for the first time, with deadlines looming for health care reform now is the time to look at the size of your business, employee demographics, and the cost advantages and disadvantages of providing health coverage.

Tip for small businesses:

Employer-sponsored benefits may offer you a cost-effective way to boost employee compensation. Although employers with less than 50 full-time equivalents (FTEs) will not be penalized for not providing a health plan, still many small businesses realize health benefits are an important part of an employee's total compensation package.

If you currently offer health insurance to employees, some individuals may be eligible for a tax-subsidy to purchase individual coverage through the federal and state Health Insurance Marketplace (employees with a household income between 100 and 400 percent of the federal poverty level [FPL]). In which case, it may be cheaper for them to purchase coverage through the Health Insurance Marketplace. On the other hand, employees not eligible for a tax-subsidy could benefit from employer-provided coverage as opposed to purchasing individual coverage through the Health Insurance Marketplace. The 2013 Aflac WorkForces Report revealed 78 percent of employees say their benefits package is important to their job satisfaction, and 65 percent say it is important to their loyalty to their employer.

78%
of employees say their benefits package is extremely or very important to their job satisfaction, and 65% say it is important to their loyalty to their employer.²

Tip for mid-to-large sized businesses:

Employers with at least 50 FTEs may be subject to penalties if they do not provide affordable and minimum value employer-sponsored health insurance.³ Employees with household incomes between 100 and 400 percent of the FPL could benefit from buying health insurance from the Health Insurance Marketplace, because they may receive a premium tax credit to help offset the cost of coverage. On the other hand, employees who do not qualify for these subsidies will not receive a tax credit. The majority of employers (88 percent) say they will continue to offer health benefits to active employees in 2014.⁴ As you consider whether to provide coverage, keep in mind that an employer's contribution to a health benefits plan is tax-deductible, whereas the potential \$2,000 - \$3,000 per employee penalty for not providing affordable, minimum value coverage is not. For more information about penalties, see **Appendix Chart 1**.

As you consider offering employer-sponsored health insurance, it is important to assess the amount your business can invest in workforce benefits.

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.

Dependent coverage transition relief

There is no penalty for failure to cover dependents during the 2015 plan year if the employer takes steps during 2015 toward satisfying the requirement in the following plan year.

This transition relief applies to employers for the 2015 plan year for plans under which: (1) dependent coverage is not offered; (2) dependent coverage that does not constitute minimum essential coverage is offered; or (3) dependent coverage is offered for some, but not all, dependents. The transition relief is not available to the extent the employer offered dependent coverage during either the 2013 plan year, or the 2014 plan year and subsequently dropped that offer of coverage. The transition relief only applies for dependents who were without an offer of coverage from the employer in both the 2013 and 2014 plan years. In addition, the employer must take steps during the 2014 or 2015 plan year (or both) to extend coverage under the plan to dependents not offered coverage during the 2013 or 2014 plan year (or both).

► Essential Question 2: How much can my business afford to spend?

If your business already offers employer-sponsored benefits:

You most likely have a good idea of how much your business can afford to pay. Take into consideration projected increases in health care costs, and your potential eligibility to take advantage of the Small Business Health Options Program (SHOP) in 2014. If your business is mid-to-large sized and rising costs are a concern, consider a private marketplace that offers fixed contribution options to help control costs.

If you are considering offering these benefits for the first time:

Discuss your options with your benefits consultant or broker to help weigh the costs. For instance, in 2013, health care costs are expected to increase per employee by 5.3 percent (0.6 percent lower than in 2012).⁴ You can use cost estimates to determine approximately how much it will cost per-employee, as well as potential penalties for not providing employee health coverage. Additionally, you can estimate your eligibility for small business tax credits to help defray the costs associated with health care coverage through the Health Insurance Marketplace.

► Essential Question 3: Which strategy will I choose?

Employee benefits are a key indicator of employee satisfaction, retention and productivity. In fact, the 2013 Aflac WorkForces Report revealed that workers who are extremely or very satisfied with their benefits program are three times more likely to stay with their employer than those workers who are dissatisfied with their benefits program.²

With many options to choose from, including traditional insurance, self-insurance, HMO, PPO, affordable coverage, or a combination of options, take time to determine your business strategy. A few strategies to consider include:

Adjust current health plan:

Talk with your broker or benefits consultant to understand how your current benefits work within new ACA standards. You may find that your benefits already meet or exceed federal

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standards, and can actually capitalize on going above and beyond to help protect workforce health and wellbeing. As you assess your current plan, keep in mind that employees may be eligible for tax subsidies through the Health Insurance Marketplace if their required contribution to employer-sponsored health insurance exceeds 9.5 percent of the employee's household income or the plan pays less than 60 percent of covered health expenses.⁵

Health Insurance Marketplace:

The Health Insurance Marketplace (also called an exchange) is expected to offer competitive benefits options to small businesses and individuals. Additionally, small businesses participating in the Health Insurance Marketplace may be eligible for a tax credit of up to 50 percent of their premium payments if they have 25 or fewer* full-time equivalent employees whose average annual wages are less than \$50,000.⁶

While it is still too early to tell exactly how competitive the Health Insurance Marketplace will be, tax credits coupled with options in the Health Insurance Marketplace may help your business to provide cost-effective workplace benefits. If you are considering shifting employees to the Health Insurance Marketplace, you may save on health care costs that could be allocated to supplemental benefits or employee salaries to provide increased value to your employees.

** Firm size: A qualifying employer must have 25 or fewer full-time equivalent (FTE) workers. Employers with more than 24 workers may be eligible if they still have fewer than 24 FTEs. For example, if a firm has 40 employees who work part-time, the firm may count 20 as FTEs and, therefore, the firm would qualify in this group. Note: The PPACA says that employers with 25 or fewer FTEs may qualify for the credit; the credit amount is phased down to zero for an employer with 25 FTEs. The IRS website, as of Sept. 20, 2013, says that employers with fewer than 25 FTEs are eligible for the credit. For more information, see www.irs.gov.*

Self-funded model:

Self-funded health care insurance plans offer an alternative to traditional health care models. In a self-funding model, the company is responsible for covering all claims in the health care plan, but because these plans are excluded from some requirements of the ACA, employers can save costs related to premium taxes and state insurance regulations.

Self-funded plans tend to shift additional costs to employees, especially when an employer has a workforce with significant health care needs. Companies may also need to consider adding adequate stop-loss coverage to accommodate for annual and lifetime dollar limit restrictions. Still, these plans are becoming increasingly popular with small businesses and can help to reduce and manage employee health care costs, while still delivering the health coverage that their workforce demands.

Defined contribution model:

In a defined contribution model, employers give their employees a fixed amount of money and a list of health insurance options for employees to pick and choose. This helps employers to keep costs predictable, while also offering employees the option to “buy-up” to more robust insurance coverage. Since these programs require employees to make more informed decisions about health care, it will be increasingly important that they understand how an employer contribution works, and how to choose supplemental options to augment out-of-pocket costs.



Important Facts About the Health Insurance Marketplace

The Health Insurance Marketplace (also called an exchange) is a key provision of the Affordable Care Act (ACA). Our experts have compiled a list of key details business leaders need to understand about marketplaces and the impact they will have on employer-sponsored benefits in 2014.

1:

A marketplace is a web portal to buy and sell benefits.

2:

The Health Insurance Marketplace will be open for small businesses and individuals to enroll on October 1, 2013.

3:

Private marketplaces generally provide cost-controlling options for businesses of all sizes.

4:

Tax subsidies are only available through the state and federal Health Insurance Marketplace.

5:

“Silver” or 70/30 coverage will be the benchmark for the state and federal Health Insurance Marketplace.

6:

Marketplaces affirm the importance of employee education.

7:

Voluntary products work with major medical coverage to provide an essential safety net.

▶ **Important Fact 1:**
A marketplace (or exchange) is a web portal to buy and sell benefits.

A marketplace (or exchange) is a web portal where individuals and businesses can shop for and buy health insurance. There will be two types of marketplaces throughout the U.S. that will impact employee benefits:

- 1 | The Health Insurance Marketplace facilitated by the state and/or federal government
- 2 | Private marketplaces facilitated by private industry stakeholders (insurance providers, brokers or benefits consultants)

▶ **Important Fact 2:**
The Health Insurance Marketplace will be open for small businesses and individuals to enroll on October 1, 2013 for coverage to go into effect January 1, 2014.

The Health Insurance Marketplace facilitated by the state and/or federal government is expected to provide an online market for individuals and small employers.⁷

Any individual can use the Health Insurance Marketplace operating in their state to explore health insurance options, even if they already have insurance. The requirements are:

- You must live in the U.S.
- You must be a U.S. citizen or national (or lawfully present).
- You can't be currently incarcerated.

Generally, small businesses can use the Small Business Health Options Program (SHOP) Marketplace to obtain insurance if they have no more than 50 full-time employees. Starting in 2016, SHOPs will be open to those with 100 or fewer full-time employees.

In 2017, states will have the option to make provisions for businesses with more than 100 employees to purchase employee benefits plans through the SHOP Marketplace.

▶ **Important Fact 3:**
Private marketplaces generally provide cost-controlling options for businesses of all sizes.

Private marketplaces will offer health coverage options to multiple workforce segments and sizes. Additionally, private marketplaces can sell all products and services, including voluntary insurance, unlike the Health Insurance Marketplace, which can only offer medical and dental insurance. Many of these private marketplaces help employers to move toward a defined contribution model that can help better control health care costs, while still offering employees robust benefits options through defined contribution.⁸

▶ **Important Fact 4:**
Tax subsidies are only available through the Health Insurance Marketplace.

Tax credits for individuals and small businesses to help offset the cost of coverage are available only for coverage purchased through a public Health Insurance Marketplace.

Tax Credits and Penalties

Individual credits: Individuals with household incomes between 100 percent and 400 percent of the federal poverty level may be eligible for tax subsidies if they are not eligible for affordable, minimum value employer-provided coverage.⁹

Small business credits: Small businesses may be eligible for a tax credit of up to 50 percent of their premium payments if they have 25 or fewer full-time equivalents whose average annual wages are less than \$50,000. While it is still too early to tell exactly

how competitive the Health Insurance Marketplace will be, tax credits coupled with the options in the Health Insurance Marketplace may help your business to provide cost-effective workplace benefits.⁶ For more information about small business tax credit eligibility see **Appendix Chart 2.**

Firm size: A qualifying employer must have 25 or fewer full-time equivalent (FTE) workers. Employers with more than 24 workers may be eligible if they still have fewer than 24 FTEs. For example, if a firm has 40 employees who work part-time, the firm may count 20 as FTEs and, therefore, the firm would qualify in this group. Note: The PPACA says that employers with 25 or fewer FTEs may qualify for the credit; the credit amount is phased down to zero for an employer with 25 FTEs. The IRS website, as of Sept. 20, 2013, says that employers with fewer than 25 FTEs are eligible for the credit. For more information, see www.irs.gov.

Penalties: Employers with at least 50 full-time equivalents must offer affordable, minimum value health coverage to their full-time employees or face a penalty.^{3,5} In some cases, it may be cost-effective for employees to purchase coverage through the Health Insurance Marketplace, despite the employer's responsibility to pay a penalty. Discuss the strategy that is right for your business with your broker or benefits advisor. For more information about penalties by business size and coverage, see **Appendix Chart 1.**

► **Important Fact 5:**
“Silver” or 70/30 coverage will be the Marketplace benchmark.

The Health Insurance Marketplace will offer four levels of coverage, which vary depending on the proportion of medical expenses the insurance plan is expected to cover. Of these plans, a “silver” plan (one that pays approximately 70 percent of medical expenses or actuarial value) will be the benchmark for calculating subsidies. Individuals can “buy-up” to other plan levels, as well as add dental coverage. Additionally, they can purchase voluntary insurance outside of the Health Insurance Marketplace.⁹

Plan Tiers:⁹

- **Bronze:** plan pays approximately 60 percent of covered medical expenses
- **Silver:** plan pays approximately 70 percent of covered medical expenses
- **Gold:** plan pays approximately 80 percent of covered medical expenses
- **Platinum:** plan pays approximately 90 percent of covered medical expenses

► **Important Fact 6:**
Marketplaces affirm the importance of employee education.

Health insurance reforms and the Health Insurance Marketplace will provide employees with the option to purchase insurance directly from the individual market, so individuals will need to better understand both their options and health risks. While the ACA requires businesses to communicate to employees about the Health Insurance Marketplace and potential eligibility for tax subsidies, employees will be responsible for deciding how they spend their health care dollars. As some employers move toward defined contribution plans, employees will be in control of how they use and add to their employer's contribution.

40%
of employees say they do not truly understand their employer's contribution to their insurance benefits.²

Currently, many employees are in the dark when it comes to their employer's investment. In fact, 40 percent of employees say they do not truly understand their employer's contribution to their insurance benefits.² As health care costs continue to be a concern for many Americans, it is increasingly important for employees to understand their benefits options, make smart benefits decisions, and wisely manage their health care dollars.

► **Important Fact 7:**
Voluntary products work with major medical coverage to provide an essential safety net.

As health care costs continue to rise, supplemental policies help provide an extra layer of financial protection for your employees. Unlike major medical insurance, supplemental policies, like the ones offered by Aflac, pay cash benefits directly to the policyholder (unless assigned otherwise) if they get sick or injured, and are a way to offer a broader benefits package to your workforce. Additionally, employees who are offered voluntary benefits by their employer are 12 percent more likely to say their current benefits package meets their family's needs extremely or very well.²

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5

Health Care Reform Dates Every Business Needs to Know

While several provisions of the Affordable Care Act (ACA) have already gone into effect, there are several key dates business owners need to be aware of in the coming months and years. We've compiled a list, as well as several useful resources, to help you navigate important health care reform milestones.

October 2013:

- ▶ Notice About the Health Insurance Marketplace

January 2014:

- ▶ SHOP and Individual Marketplaces
- ▶ Required Contribution to the Temporary Reinsurance Program
- ▶ Small Business Tax Credit Changes
- ▶ Second Wave of Health Insurance Reforms

January 2016:

- ▶ Shared Responsibility Payment Phase II
- ▶ IRS Reporting Requirement for Employers

January 2018:

- ▶ Cadillac Plan Tax

January 2015:

- ▶ Shared Responsibility Payment Phase I

▶ **Important Date 1:**
October 1, 2013

Notice about the Health Insurance Marketplace

Employers subject to the Fair Labor Standards Act are required to notify employees of the Health Insurance Marketplace and potential eligibility for premium credits. Aflac has created the “Health Care Reform Communications Toolkit” to help businesses to comply with this communications requirement. Available at aflac.com/HCR_Toolkit, these tools can be customized with a company’s logo and used with workers.

▶ **Important Date 2:**
January 1, 2014

Small Business Health Options Program (SHOP) and Individual Health Insurance Marketplace

Effective 2014, small businesses and individuals will have the opportunity to participate in the federal and state facilitated Health Insurance Marketplace.¹⁰ Specific information by state can be found at healthcare.gov.

Required contribution to the temporary reinsurance program

During the first three years of insurance market reforms (2014–2016), a temporary reinsurance program for the 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 the self-funded plan. For 2014, the annual per capita amount is set at \$63 per enrollee.¹⁰

Small business tax credit changes

Small business tax credits will expand to 50 percent of a small business’s premium costs for two consecutive years. These credits are available to businesses with average wages of less than \$50,000 and 25 or fewer full-time equivalent employees that offer health insurance through the Small Business Health Options Program (SHOP) Marketplace.⁶

Firm size: A qualifying employer must have 25 or fewer full-time equivalent (FTE) workers. Employers with more than 24 workers may be eligible if they still have fewer than 24 FTEs. For example, if a firm has 40 employees who work part-time, the firm may count 20 as FTEs and, therefore, the firm would qualify in this group. Note: The PPACA says that employers with 25 or fewer FTEs may qualify for the credit; the credit amount is phased down to zero for an employer with 25 FTEs. The IRS website, as of Sept. 20, 2013, says that employers with fewer than 25 FTEs are eligible for the credit. For more information, see www.irs.gov.

Second wave of Health Insurance Reforms

In addition to these milestones, there will be a second wave of Health Insurance Reforms that are effective for group health plans, including:¹⁰

- Pre-existing condition exclusions will no longer be permitted.
- There will be no annual dollar limits on benefits.
- Small group fully insured plans will be required to offer essential health benefits and have limits on deductibles (does not apply to grandfathered plans).
- Limits will be placed on out-of-pocket expenses (does not apply to grandfathered plans).
- Health insurers will be subject to modified community ratings and guaranteed-issue requirements.
- Waiting periods in excess of 90 days will be prohibited.

▶ **Important Date 3:**
January 1, 2015

Shared Responsibility Payment Phase I

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. For more information about penalties, see **Appendix Chart 1**.

Penalties

\$2,000 for each full-time employee: If the employer does not offer minimum essential health coverage to at least 95 percent of full-time (30 hour) employees and their dependents, and at least one full-time employee obtains a premium subsidy through the Health Insurance Marketplace, the penalty is \$2,000 per year, per full-time employee, excluding the first 30 employees.⁵

Note: This calculation is also used as a cap for employers offering coverage that is considered unaffordable or does not meet the minimum value standards (see \$3,000).

\$3,000 for each full-time employee receiving a subsidy: If an employer offers coverage that is considered unaffordable or does not meet minimum value standards, the fine is calculated as \$3,000 for each full-time (30 hour) employee purchasing coverage through the Health Insurance Marketplace and receiving a premium subsidy, up to a cap of \$2,000 multiplied by the number of full-time employees, excluding the first 30 employees.⁵

▶ **Important Date 4:**
January 1, 2016

Shared Responsibility Payment Phase II

In 2016, the requirement is extended to employers with 50 or more full-time equivalent employees. Additionally, at this time coverage must be offered to 95 percent of full-time employees and their dependents.

IRS reporting requirements for employers

Your business will be required to report information regarding the health coverage of your employees, including basic employee data, dates and type of coverage; cost-sharing; and any other information required by the IRS. These requirements apply to coverage offered on or after January 1, 2015, but the first report will not be due until 2016.^{3,11}

▶ **Important Date 5:**
January 1, 2018

Cadillac plan tax

A tax will be imposed on insurers and employers with self-funded health plans with annual premiums that exceed \$10,200 for individuals and \$27,500 for families.¹¹ The Cadillac tax is 40 percent of the excess of the annual value of a health plan's cost above the threshold amounts set forth above.¹²

Milestones already in place:

March 23, 2010

Availability of small business tax credits:

If you offer your workforce health insurance and employ fewer than 25 full-time equivalent employees, your business may be eligible for the Small Business Health Care Tax Credit.⁶ For more information about these credits visit irs.gov/newsroom/article/0,,id=223666,00.html.

January 1, 2011

Availability of SIMPLE cafeteria plans:

SIMPLE cafeteria plans are a new way for small businesses with 100 or fewer employees to save money. These plans allow employees to pay their portion of health insurance premiums and other eligible benefits, such as contributions to flexible spending accounts, with pre-tax dollars. As an employer, you can take advantage of this option to save on the employer portion of FICA, FUTA and workers' compensation insurance premiums.¹³

Restriction on reimbursement of over the counter (OTC) medicines:

Tax favored plans, including health flexible spending arrangements (FSAs) and health reimbursement arrangements (HRAs) cannot be used to reimburse OTC medicines.¹⁴

August 1, 2012

Women's preventive care requirements:

Nongrandfathered group health plans are required to offer preventive coverage to women without cost-sharing for plan years beginning on or after August 1, 2012. Certain religious employers are exempt from the requirement to offer contraceptive coverage, and others may qualify for a one-year delay or special accommodation.¹⁵

Medical Loss Ratio rebate distribution:

Major medical insurers that did not meet the new medical loss ratio (MLR) requirements were required to issue the first rebates to policyholders by August 1, 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.).¹⁶ In the future, any rebates due must be paid by August 1 of each year.

For more information, visit these websites:

- Department of Labor website at dol.gov/ebsa/newsroom/tr11-04.html.
- Internal Revenue Service website at [irs.gov/uac/Medical-Loss-Ratio-\(MLR\)-FAQs](http://irs.gov/uac/Medical-Loss-Ratio-(MLR)-FAQs).

September 23, 2012

New summary of benefits:

Major medical insurers began sending all benefits enrollees and applicants a new summary of benefits booklet and coverage notice to explain their benefit plans and coverage. If your business has a self-funded plan, you will be required to provide the new summary for annual enrollment periods on or after September 23, 2012, as well as all other enrollments for plan years beginning on or after January 1, 2013.¹⁷

Try these helpful sites:

- Department of Labor sample template: dol.gov/ebsa/pdf/SBCSampleCompleted.pdf
- Template FAQ and help: dol.gov/ebsa/healthreform/

October 1, 2012

Patient-Centered Outcomes Research Institute (PCORI) fee:

Starting with plan years ending on or after October 1, 2012, issuers and plan sponsors are required to pay a new fee for each covered beneficiary with the fee going to the PCORI fund.

The funds will help contribute to research that evaluates and compares health outcomes and clinical effectiveness, and the risks and benefits of two or more medical treatments and/or services. Since the fee is treated as an excise tax, it is filed through IRS Form 720. The PCORI fee is \$1 per covered beneficiary for the first year, and for the first year was due July 31, 2013.¹⁸

January 1, 2013

Health flexible spending arrangement contribution limit

The ACA limits the amount of participant pre-tax dollars that can be used to cover health expenses through flexible spending accounts (FSAs). FSA participants have a salary reduction limit of \$2,500 for plan years beginning on or after January 1, 2013.¹³

W-2 reporting requirement

All employers that issued at least 250 Form W-2s in 2011 will need to report the value of health care coverage that employees participated in during the 2012 plan year on the employee's Form W-2. Some items, such as stand-alone dental, vision, and health savings account contributions, are excluded from this reporting requirement. Although the value must be reported, it is not taxable for the business or employee.¹⁹ Future regulatory guidance could require small businesses with fewer than 250 employees to meet the W-2 requirement.¹⁰

Medicare retiree drug subsidy tax deduction eliminated

Employers will no longer be able to deduct retiree drug expenses for which they receive a Medicare Part D retiree drug subsidy payment.¹⁰

Appendix:

► **Chart 1:
Penalties by
business size
and coverage**

Business Size based on number of full-time equivalent employees (FTE)	Subject to a penalty of \$2,000 per full-time employee, excluding the first 30 employees.	Subject to a penalty of \$3,000 per full-time employee purchasing insurance and receiving a subsidy through the Health Insurance Marketplace, up to the cap of \$2,000 times the number of full-time employees, excluding the first 30 employees.
1-25	No	No
26-49	No	No
50+ without employer-provided coverage	Yes	No
50+ with employer-provided coverage deemed unaffordable, or not providing minimum value	No	Yes*

*The employer pays the lesser of the two amounts in columns 2 and 3.

Note: 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.

► **Chart 2:
Marketplace
eligibility by
business size**

Business Size based on number of full-time equivalent employees (FTE)	Eligible for Small Business Tax Credits	Eligible for the SHOP Marketplace	Eligible to purchase fixed-contribution coverage through a private marketplace*
1-24	Yes	Yes	Yes
25-50	No	Yes	Yes
51-100	No	Yes, starting in 2016**	Yes
100+	No	No***	Yes

* Requirements may vary based on individual private exchange requirements, but generally these are more flexible.

** Before 2016 states may limit SHOP participation to employees with no more than 50 employees. Almost all states and the federal government have limited SHOP participation to such employees.

*** However, federal and state marketplaces may choose to open the SHOP to employers with 100+ employees in 2017.

Sources:

- ¹ Kaiser Family Foundation (May 2012), "Health Care Costs – A Primer," kff.org/insurance/upload/7670-03.pdf, accessed on August 3, 2012.
- ² 2013 Aflac WorkForces Report, a study conducted by Research Now on behalf of Aflac, January 7 – 24, 2013.
- ³ 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 <http://www.irs.gov/pub/irs-drop/n-13-45.PDF>.
- ⁴ Towers Watson, 2012 Health Care Trends Survey, accessed on November 8, 2012, from towerswatson.com/en-US/Insights/IC-Types/Survey-Research-Results/2012/10/health-care-changes-ahead-survey-report.
- ⁵ 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.
- ⁶ Internal Revenue Service (2013). Small Business Health Care Tax Credit for Small Employers. Accessed on August 6, 2013, from <http://www.irs.gov/uac/Small-Business-Health-Care-Tax-Credit-for-Small-Employers>.
- ⁷ The U.S. Department of Health and Human Services (HHS) has issued a list of states that have been conditionally approved to operate a state exchange or that will partner with the federal government to operate an exchange. The list is available through the HHS website at: <http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/state-marketplaces.html>. For states that do not establish an exchange, the HHS will operate a federally-facilitated exchange (FFE) for those states, and premium tax credits will be available for those who buy individual coverage in an exchange.
- ⁸ Booz & Company (2012). The Emergence of Private Health Insurance Exchanges Fueling the "Consumerization" of Employer-Sponsored Health Insurance, accessed on November 9, 2012, from booz.com/media/uploads/BoozCo-Emergence-Private-Health-Insurance-Exchanges.pdf.
- ⁹ Congressional Research Service (2012). Health Insurance Exchanges Under the Patient Protection and Affordable Care Act (ACA), accessed on November 9, 2012, from fas.org/sqp/crs/misc/R42663.pdf.
- ¹⁰ Kaiser Family Foundation (2012), Implementation Timeline, accessed on August 23, 2012, from healthreform.kff.org/timeline.aspx.
- ¹¹ Internal Revenue Service (2012), Request for Comments on Reporting of Health Insurance Coverage, accessed on September 25, 2012, from irs.gov/pub/irs-drop/n-12-32.pdf.
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