

JANUARY 6, 2015

HAPPY NEW YEAR?

12 THINGS TO REMEMBER ABOUT HEALTH CARE REFORM FOR 2015

Well, it's finally that time: On New Year's Day, the Patient Protection and Affordable Care Act's ("PPACA's") long-awaited (and, for some employers, dreaded) "pay or play" mandate went live. This mandate - which is officially known as the "employer shared responsibility" mandate - requires employers with 50 or more "full-time" employees (or their equivalents) to offer affordable, minimum value coverage to all of their full-time employees and their dependents, or else pay a penalty. We've been working nonstop with our clients over the past several years to help prepare them for compliance.

Now that the new year has begun, we've come up with a list of **12 Things to Remember About Health Care Reform for 2015**:

1. **Beware of Excise Taxes.** Even if you're a small employer with less than 50 full-time employees, PPACA is still applicable to you and imposes certain restrictions on the kind of medical coverage you may offer to your employees. For more information, see our previous Alert, ["The Forgotten Penalty: Health Care Reform Excise Taxes Could Devastate Employers."](#)
2. **One-Year Delay for Some Small Employers.** Employers with between 50 and 99 full-time employees may be eligible for a one-year reprieve from the "pay or play" mandate. But this transitional relief is not automatic. If you're not sure whether you are eligible, talk to your employee benefits counsel or benefit consultant.
3. **Fiscal Year Plans.** For employers with calendar year plans (that is, plan years beginning on January 1) who are not eligible for the one-year delay referenced in #2 above, the "pay or play" mandate applies on January 1, 2015. If your plan year begins on a different day, you may be able to delay application of the "pay or play" mandate until the first day of the plan year that begins in 2015. Once again, though, that transition relief isn't automatic, so talk to benefits counsel or a benefit consultant if you aren't sure about your eligibility.
4. **Section 6055 and 6056 Reporting.** In addition to the "pay or play" mandate, employers with 50-plus full-time employees must file a series of tax returns under Sections 6055 and 6056 of the Internal Revenue Code. *The reporting requirement applies even if the employer is eligible for the "pay or play" transition relief discussed above. We've been getting a lot of questions about these reporting requirements, and we will be presenting a seminar on the topic in the first quarter of this year. Stay tuned for an announcement.*

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5. **Tracking Hours of Service.** The returns described in #4 above generally must include a determination, for every month of the year, whether each employee worked or was otherwise credited with enough hours of “service” to be deemed “full-time” for that month. This means employers need to start tracking hours for each employee during each month of the year throughout 2015. Employers using the look-back measurement method to determine who is a “full-time” employee should have already started counting employee hours in late 2013 or early 2014. (For more on the look-back measurement method, see our Alert on the “pay or play” mandate.)
6. **Applicable Large Employer Status.** Employers that are near the 50 full-time employee threshold need to pay close attention to their employees’ hours during each month of 2015 to determine if they will be deemed to be an “applicable large employer” (and thus subject to the “pay or play” mandate) for the following year (in this case, for 2016). The monthly average of full-time employees and equivalents in 2015 will determine whether the employer is subject to the “pay or play” mandate in 2016.
7. **Transitional Reinsurance Fee for Self-Insured Plans.** For self-insured plans, the first installment of the 2014 Transitional Reinsurance Fee is due on **January 15, 2015**. Self-insured plans must pay \$52.50 per covered life to the Department of Health and Human Services. (In the fourth quarter of 2015, the second installment of the fee - \$10.50 per covered life - is due.)
8. **PCOR Fee for Self-Insured Plans.** Also, don’t forget about the Patient-Centered Outcomes Research Institute or “PCOR” fee, which must be paid by self-insured plans by July 31, 2015, for the plan year ending in 2014. The fee, which is due on July 31, 2015, depends on when the plan year ended: for plan years ending before October 1, 2014, the PCOR fee is \$2.00 per covered life. For plan years ending after October 1, 2014, the PCOR fee is \$2.08 per covered life. This number will go up in future years.
9. **W-2 Reporting of the Cost of Coverage.** Employers will need to report the cost of coverage on each employee’s Form W-2 for 2014. These W-2s must be given to employees by January 31, 2015. The W-2 reporting requirement isn’t new, but it’s something to remember as we begin the new year (and remember it only applies if you are required to file at least 250 Form W-2s for a given year). The rules regarding exactly what coverage must be reported on the W-2 are a bit tricky, so be sure to consult with your benefits counsel or consultant to ensure that you are reporting accurately. More information is also available in our [Alert from May 2012](#).
10. **Skinny Plans and Minimum Value.** If you’re offering a “skinny” plan, beware: on November 4, 2014, federal regulators closed a “loophole” in the online “minimum value calculator” that many of these “skinny” plan sponsors were relying on to satisfy PPACA’s minimum value requirement. Plans that relied on the calculator and were in place before November 4 can continue to rely on the calculator for 2015, but other “skinny” plans may be out of luck.
11. **Cafeteria Plan Election Changes.** In September 2014, the IRS changed the cafeteria plan rules to permit two PPACA-related election changes. Specifically, employers now have the option to permit employees to drop medical coverage under a cafeteria plan during the middle of the plan year if:
 - a. The employee is in a plan that uses the look-back measurement method and was working 30+ hours per week, but dropped his/her hours to a level which would normally cause the loss of eligibility under the plan (but for the fact that the employee is in a “stability period”), or

- b. The employee is in a non-calendar-year plan and wants to drop coverage to enroll in a plan through the health insurance “Marketplace” (or “Exchange”).

As you might expect, both of these election change events have their own rules and wrinkles. Employers that want to add these to their cafeteria plan must amend the plan document by the end of the 2015 plan year. So there’s time, but employers should make their decision as soon as possible. If you’re interested in adding these election change events to your plan, let us know.

12. **Health FSA Limit.** This isn’t directly related to PPACA, but it affects employee benefits: In late 2014, the IRS increased the health flexible spending account (or “**health FSA**”) contribution limit by \$50, from \$2,500 to \$2,550. If you wish to amend your cafeteria plan to reflect this new limit, you ordinarily must do so prior to the first day of the plan year. There is a special transitional rule for the 2014 plan that allows you to amend your plan by the last day of the 2014 plan year. For calendar year plans, the deadline has clearly passed; but if your plan operates on a non-calendar year basis, there’s still time. If we prepared your plan documents, and you want to make this change either for your 2014-2015 plan year, or for some future year, let us know. We’ve developed special language to automatically adjust your health FSA limit in future years, which will eliminate the need for additional changes every time the IRS adjusts the health FSA limit.

This list isn’t exhaustive. It’s just a brief overview of the many aspects of health care reform that employers need to be aware of as we transition into 2015. If you have any questions regarding health care reform compliance for employers, please feel free to call [Eric Namee](#), [Steven Smith](#), or [Brad Schlozman](#) at (316) 267-2000.