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Changes in health care legislation could affect business owners in many different areas

Alana Holland, 11/22/2010

Health care for employers in America was effectively changed as we know it when President Obama signed the Health Care and Education Reconciliation Act of 2010. This legislation amended the Patient Protection and Affordable Care Act that had been signed on March 23. As a business owner, how and when will these changes affect you? Let's take a look at what will be implemented in the coming years and how you might prepare your company for what's ahead.

2010—Grandfathered Status

Plans in effect as of March 23, 2010, or upon renewal starting Sept. 23, 2010, are considered grandfathered, as long as certain plan changes have not occurred. When it comes to your company's medical group policy, be sure it maintains grandfathered status. Loss of this preferred status could put your company at risk for major penalties if it discriminates in favor of highly compensated employees. In addition, if the plan is self-funded, highly compensated employees will be forced to pick up all benefits as income. If the employer does discriminate and the plan is fully insured, an excise tax of \$100 per day will be assessed for each affected non-highly compensated individual in the plan.

Small Employer Health Insurance Tax Credit

The small employer health insurance tax credit is available for qualified small employers who contribute at least 50 percent of the premium cost of a qualifying health plan to employees. To fully qualify for the credit, businesses with 10 or fewer employees and average annual per employee pay of up to \$25,000 can claim the credit for 35 percent of health insurance premium contributions. The credit does phase out when a small business has more than 25 employees and an average per employee annual wage of more than \$50,000.

To calculate your full-time equivalent employees, total all hours worked by your employees during the tax year, divide the result by 2,080 hours and round down to the nearest \$1,000. Do not include seasonal workers' hours unless they work more than 120 days during the taxable year. Also do not treat self-employed individuals, including partners and sole proprietors, 2 percent shareholders of S corporations, family members and 5 percent owners as employees when calculating full-time equivalent employees.

The IRS recently released a draft Form 8941, Credit for Small Employer Health Insurance Premiums that will be attached to your return when claiming the credit. The 35 percent credit is available through 2013 for employers who purchase health insurance coverage for employees from a licensed insurance company. 2011—Cafeteria Plans

Small employers may apply a new safe harbor to their cafeteria plans. The safe harbor allows the qualified benefits available under the plan to be treated as complying with all nondiscrimination rules if the plan satisfies minimum eligibility, participation and contribution requirements. Group term life insurance, benefits under a self-insured medical expense reimbursement plan and benefits under a dependent care assistance program are included. To be eligible, an employer must have employed an average of 100 or fewer employees on business days during either of the two preceding years. In addition, over-the-counter medicine purchased without a prescription is no longer an eligible expense under a flexible spending account.

Required Mandates in Employer-Sponsored Plans

Companies with employer-sponsored plans will need to remove annual and lifetime limits on essential benefits, and provide preventative care not subject to co-pays and deductibles and remove pre-existing limitations for enrollees under age 19. Dependent coverage should be extended to include employees' unmarried children who have not reached age 27.

2012—Form W-2 Reporting

The IRS recently postponed the original start date from 2011 to 2012 for when employers must disclose the value of an employee's health insurance coverage sponsored by the employer on their Form W-2.

Form 1099 Reporting

Corporations are now included in the requirements for Form 1099 filings. Payments over \$600 must report property and/or services.

2013

The contribution limit for a flexible spending account set up under a cafeteria plan is now \$2,500 per year.

2014—Small Business Health Insurance Tax Credit

The small business health insurance tax credit adjusts the upper and lower wage limits for inflation. The credit also increases to 50 percent and is only available to qualifying employers who purchase health insurance coverage through a state exchange.

Employer Pay-or-Play Mandate

The health care reform package does not require employers to provide health insurance coverage; however, large employers will be penalized if they fail to offer qualified coverage. A large employer is one with on average at least 50 full-time employees or full-time equivalents. If the employer fails to offer qualified coverage, a nondeductible penalty will be assessed. Penalties are \$2,000 per employee, not including the first 30 employees and are payable monthly.

Free Choice Vouchers

A new free choice voucher system will be in place whereby an employer who offers an employer-sponsored healthcare plan and pays a portion of the cost of coverage must provide qualified employees with a voucher. Employees can use the voucher toward the cost of purchasing a self-only health plan through a state exchange. This will likely be disputed due to employee privacy issues and subject to change as we get closer to its availability date.

Cafeteria Plan

If an employee purchases health insurance through the state exchange, they cannot be reimbursed from their flexible savings account.

Some of these changes may be amended down the road, so stay informed as to what is current or call your tax advisor for assistance.

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