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Health-Care Reform: Considerations for Employers

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You may have heard that the health-care reform legislation passed in 2010 requires all employers to provide health insurance to their employees. That is not the case. But the law does try to encourage employers to offer health insurance by imposing penalties on larger employers that don't offer affordable health insurance coverage, and by offering incentives in the form of tax credits to smaller employers who do provide their workers with affordable health-care coverage.

Grandfathered plans

Employer plans that were in existence on the date the health-care law was enacted (March 23, 2010) are considered grandfathered and are subject to some of the provisions of the health-care reform law. Provisions of the new law that affect grandfathered plans include:

- Plans must extend dependent care coverage (if offered by the plan) to adult children up to age 26
- Plans can no longer impose lifetime coverage limits
- Plans can no longer include pre-existing condition exclusions for plan participants and beneficiaries
- Plans can no longer apply annual limits on coverage
- Plans cannot extend coverage waiting periods beyond 90 days

Tax penalty

Employers with 50 or more full-time equivalent employees that do not offer health insurance coverage to employees are generally subject to a tax penalty if even one full-time employee buys coverage through a state exchange and is entitled to a tax credit or cost-sharing reduction. (The rules for calculating average full-time employees can be a little tricky, though — part-time employees are factored in as part of the determination, for example.)

If you fall into this category and do offer health insurance coverage to your employees, but the coverage isn't considered "affordable," as defined by the law, a separate penalty calculation applies — for each employee who purchases health insurance coverage through a state exchange and is entitled to a tax credit or cost-sharing reduction; however, this penalty is capped at the amount you would pay if you offered no insurance coverage at all. The coverage you provide may be considered unaffordable if it doesn't cover at least 60% of the cost of covered services, or the premium for an employee's coverage exceeds 9.78% of the employee's household income.

Small business tax credit

The health-care reform law does provide an incentive in the form of tax credits to certain small businesses (generally those with fewer than 25 full-time employees) that pay at least half the cost of health insurance for their employees.

The maximum credit is 50% of the employer's premium (35% for eligible tax-exempt employers), as long as employers purchase coverage for employees through the federal or a state Marketplace.

To be eligible for the maximum tax credit, the employer must have 10 or fewer employees and average annual wages not exceeding $25,000. The credit is phased out for employers with between 10 and 25 full-time employees, and for employers whose full-time employees have average annual wages between $25,000 and $50,000. In addition, the credit is capped based on the average cost of health insurance in the area where the small business is located.

SHOP exchanges

Many small businesses with 100 or fewer employees can purchase health insurance through state-based Small Business Health Options Program (SHOP) Marketplaces. The Marketplaces offer at least four benefit categories of plans based on covering an increasing percentage of benefit costs, and allow employers to more easily compare plan prices and benefits. Some states allow employers with more than 100 employees to buy coverage through SHOP Marketplaces. Visit www.healthcare.gov/small-businesses/employers/ for more information on your state's SHOP.

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