

Health Care Reform

Affordable Care Act/Covered California

Ohlone Community College
November 19, 2013

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Today's Goals

- ACA Primer – The Basics
- Covered California – The California Exchange
- Employee Behavior
- Compliance Timelines
- Commentary
- Questions

Acronyms

1. “ACA” – “PPACA” – “Obamacare”: Affordable Care Act, Patient Protection and Affordable Care Act and President’s Obama’s Health Care Plan (All the same thing)
2. “Assessable Payment”, “Shared Responsibility,” or “Pay or Play Penalty” is the tax under IRC§4980H (if no coverage offered, or unaffordable coverage or of a minimum value)
3. “FTE” : Full-Time Employee
4. “FPL”: Federal Poverty Level
5. “HI”: Household Income (very similar to Adjusted Gross Income as found on IRS Form 1040 but with a few add-ins)
5. “MEC”: Minimum Essential Coverage (typical employer coverage, individual coverage, Medicare, Medi-Cal, TRICARE)

Four Principles of the Affordable Care Act

Principle One

The Individual Mandate

“Every individual must have “Minimum Essential Coverage” (MEC) starting in 2014 or pay a tax”

Example

- Employee's Household Income (similar to adjusted gross income) is \$50,000
- There are two adults and two children in the household
- If the employee and family members have no MEC, the tax for 2014 is:
 - Greater of \$95 per adult (\$47.50) per child or 1% of HI over the Filing threshold (\$19,000 in 2011)
 - Greater of \$285 or \$310 ($.01 \times (\$50,000 - \$19,000)$)
- In 2016, the penalty is the greater of \$695 per adult or 2.5% of HI over the Filing Threshold
 - Greater of \$2,085 or \$775 ($.025 \times (\$50,000 - \$19,000)$)

Principle Two

Employer Shared Responsibility

“An employer is responsible to provide “affordable” MEC with a “minimum value” to its ACA Full-Time Employees and children starting in 2015 (deferred from 2014) or risk paying a tax”

ACA Definitions

- **Affordable:** Lowest cost single-only coverage offered by the employer must cost the employee no more than 9.5% of his/her Household Income
- **Minimum Value:** The employee cost of a plan (all in) cannot be greater than 40% (aka actuarial value)
- **ACA Full-time Employee:** 30 hours/week

Principle Three

ACA Full-Time Employee

“An ACA Full-Time Employee is an employee who works, on average, 30 hours per week or 130 hours in a month”

ACA FTE

- Definition is important because:
 - It identifies who should be covered
 - It is used to calculate the tax
- Requires monthly tracking unless the IRS Safe-Harbor is used: “Measurement Method Safe Harbor”
 - Look back 3, 6, 9 or 12 months
 - Count actual hours earned during that measurement period
 - Determine whether individual is FT or PT based on 30 hours of service earned per week (130 hours per month)
 - Result: For the future “stability period,” usually the plan year, employee is deemed to be PT or FTE regardless of hours earned.
- This is not about eligibility. It is about tax.

Principle Four

Government Subsidies to Purchase Exchange Coverage

“An ACA FTE whose employer does not provide ‘affordable coverage’ or coverage with a ‘minimum value’ may purchase coverage on the Exchange and receive a subsidy from the Federal Government which triggers the employer’s tax obligation.”

Failure to Offer Coverage

1. To 95% of ACA FTE Workforce

- $\$2,000 \times (\text{ACA FTE Workforce} - 30)$
- Example: 1,000 ACA FTE Workforce with 900 eligible for coverage (90%)
- Penalty: $\$2,000 \times 970 = \$1,940,000$ annually

2. To 5% or less of ACA FTE Workforce

- $\$3,000 \times$ each ineligible FTE who purchases coverage on Exchange and receives a Federal Subsidy

ACA FTE

No penalty tax is imposed on employers who do not provide group medical coverage (i.e. MEC), or affordable coverage or coverage of a minimum value to:

- Part-Time Employees
- Independent Contractors
- Leased Employees
- Variable (Seasonal/Temporary) Employees
- Newly Hired ACA Full-Time Employees for a waiting period up to 90 days

Part-Time Employees (<30 hrs/week)

- What is the message from the government?
- How do PTEs fit in with workforce strategy?
 - Apple, Inc.
 - Wal-Mart Stores, Inc.
- IRS guidance on PTE waiting periods:
 - 1250 hours of service for eligibility
 - 90-day waiting period begins after the 1250 hours of service are completed

ACA FTE Month-to-Month

- FTE status is a month-to-month determination
- A PTE who works overtime in a month could be an FTE for that month
- Tax on employers is calculated on a monthly basis ($\$3,000/12 = \250)
- Note: This is all about paying tax. There is no requirement to offer coverage or affordable coverage

Predicting Employee Behavior in 2014

Exchange Facts – “Covered California”

- Exchange Coverage:
 - Guaranteed Issue
 - No medical underwriting
 - Rates: 3:1 ratio based on age
 - Exchange goal is to have low cost coverage
- It has defined “plan” as consisting of Bronze, Silver, Gold and Platinum (“full metal tier”) levels of benefits including a catastrophic plan within a geographic region
- A health insurance carrier can bid up to three plans for each geographic location
 - RFPs are completed, contracts being negotiated
 - Plans selected early 2013
 - Pricing announced in March 2013

Exchange Facts

- Covered California (the “Exchange”) is a marketplace for health insurance. It will offer insurance in 19 regions in California:
- Bronze - 60% actuarial value
- Silver - 70% actuarial value
- Gold - 80% actuarial value
- Platinum - 90% actuarial value
- Catastrophic - Under age 30 only

Exchange Facts

- Exchange is very concerned about:
 - Impact of adverse selection on it
 - Must be self-sustaining by January 1, 2015
 - Pricing
 - Offering too many choices in a region
- Marketing and outreach
 - 2013 Goal: 3 Billion ad impressions
 - 2014 Goal: 4 Billion ad impressions
 - Website: www.coveredca.com

Timeline: California Health Benefit Exchange to 2014

2012	2013	2014
<ul style="list-style-type: none"> • August: Receives \$200 Million Federal grant to finish implementation • September: Marketing Plan approved <ul style="list-style-type: none"> – Branding – Media strategy – Outreach strategy – Budgeting • October: Notice of Intent to Bid to Insurance Carriers • October: Prototype systems completed • November: Design of web portal completed • December: Design of enrollment system completed • December: Design of financial system completed 	<ul style="list-style-type: none"> • January: Heavy mass marketing campaign begins • January: Health insurance carriers bids are due • March: Building of web portal completed • May: Building of enrollment system completed • May: Building of financial system completed • June: Exchange web portal “goes live” • October: Exchange enrollment system “goes live” 	<ul style="list-style-type: none"> • January: Exchange financial system “goes live” • April: Retention marketing begins (“now that you have it, keep it”) • July: Reenrollment marketing begins for 2015

Employee Behavior

- Will the availability of Exchange coverage impact employee behavior?
 - Availability of Subsidies
 - Cash-in-lieu
 - Less expensive
 - Better access to a variety of plans
 - More for the money
 - Working just for health benefits (e.g. near retirement or part-time) don't need GHP anymore

Represented Employees

- Definition of FTE in collective bargaining agreements – is ACA FTE definition required?
- 2014 requires waiting periods for eligibility (regardless of FTE/PTE) of no more than 90 days
- ACA FTE's at lower end of salary schedule and PTE's may be better off economically on the Exchange
- Unions can be Exchange-trained “Assistors” to help members with decision to purchase on Exchange

TIMELINES

Employee Timeline – What employee sees

2012	2013	2014	2015 +
<ul style="list-style-type: none"> <input type="checkbox"/> SBC (PY 7/1/13) <input type="checkbox"/> Uniform Glossary (PY 7/1/13) 	<ul style="list-style-type: none"> <input type="checkbox"/> Mass marketing begins for California Exchange (1/1/13) <input type="checkbox"/> Value of coverage reported on Form W-2 (1/31/13) <input type="checkbox"/> Notice of Exchange (3/31/13) <input type="checkbox"/> \$2,500 cap HFSA (PY 7/1/13) <input type="checkbox"/> .9% Medicare payroll tax increase for high earners <input type="checkbox"/> 3.8 % Medicare contribution tax on unearned income <input type="checkbox"/> Open enrollment for California Exchange begins October 1 <input type="checkbox"/> AGI Threshold for medical expense deduction for those under age 65 increases to 10% 	<ul style="list-style-type: none"> <input type="checkbox"/> Individual Mandate <input type="checkbox"/> Exchange coverage effective Jan 1 <input type="checkbox"/> New Definition of FTE <input type="checkbox"/> Premium subsidies for Exchange coverage available to employees at lower end of salary schedule <input type="checkbox"/> Coverage for all adult children regardless of other coverage (PY 7/1/14) <input type="checkbox"/> 90-day waiting period <input type="checkbox"/> Clinical Trial coverage (NGF)(PY 7/1/14) Amendment 	<ul style="list-style-type: none"> <input type="checkbox"/> Automatic Enrollment <input type="checkbox"/> Employer reporting to IRS about employee coverage <input type="checkbox"/> Tax penalties assessed on employees who did not have Minimum Essential Coverage in 2014 • 2018: <input type="checkbox"/> Cadillac Tax

2013 HR Checklist Regarding Employees

- Preparation: Anticipating Employee Concerns
 - Mass marketing campaign by California Exchange
 - Value of coverage reported on IRS Form W-2
 - Notice of Exchange
 - Collective bargaining considerations – Education/Schedule Planning
 - Individual Mandate
 - Government subsidies for Exchange coverage
 - Adverse selection - Planning
 - .9% Medicare Payroll Tax on High Earners - Communications
 - Open enrollment for the California Exchange – Requests for Plan info
 - New Definition of Full-Time Employee

2014 HR Checklist Regarding Employers

- ❑ Preparation: Anticipating Employee Concerns
 - ❑ Is employer coverage Minimum Essential Coverage?
 - ❑ How much tax will I pay if I have no coverage?
 - ❑ Addressing employees who have elected Exchange coverage.
 - ❑ Collective bargaining considerations – Exchange opportunities
 - ❑ Use of Assistors by employees
 - ❑ Employees who may wish to go to the Exchange mid-year
 - ❑ Employees claiming that they were never advised of subsidy
 - ❑ Questions about an employee's full-time/part-time status
 - ❑ Questions about waiting periods
 - ❑ Questions about 2014 plan changes

Closing Comments

- Health Care Reform
 - Good Ideas; Poor Execution; Uncertain Results
- The California Exchange Will become very involved in the delivery of healthcare
- Three broad allocations of duties
 - Strategic Planning
 - Compliance
 - Employee Behavior - Communications

Questions?

Thank you!