Healthcare Provisions 2013/2014

What Small Businesses Need to Know

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PPACA

The healthcare reforms in the Patient Protection and Affordable Care Act (PPACA), commonly referred to as "Obamacare," are a major question mark for small businesses as they plan for the next few years. The reform represents one of the largest regulatory changes for businesses ever, and will impact every small business whether directly or indirectly. Small business owners should be aware of what impact the PPACA's health care reforms will have in 2013, 2014, and beyond, and the timeline for when important changes will take effect.

Changes for Small Businesses

While health care reform will touch all businesses, it will have especially big impacts on "small groups," or businesses with fewer than 50 employees who work 30 or more hours per week.

On one hand, small groups are not affected by perhaps the most important change: the PPACA's employer shared responsibility provisions, also known as the employer mandate. Under the employer mandate, companies with 50 or more full-time employees essentially will be required to offer health insurance coverage, or with certain exceptions pay a $2,000 penalty per employee. Small groups, however, are not subject to the employer mandate and therefore not required to offer health care coverage. Employees working at small groups that choose not to offer health insurance coverage will be able to enter "health care exchanges," operated at the state or regional level.

For small businesses that do offer coverage, however, premium rates will be going up as a result of changes in how insurance companies must operate.

If you currently offer health insurance, you have likely noticed an increase in rates for 2013 in advance of the law going into full effect.

The cause of these premium rate increases is "community rating." Community rating requires insurance companies to do a few things:

- Offer coverage to anyone;
- Do not look at medical history for individuals within a group; only age, gender, tobacco use, and geographic region can be factored into rates;
- Do not exclude preexisting conditions; and
- Cover certain government-mandated types of care that might not have been covered before.

In combination, these requirements work together to raise premium rates. The reason is that insurance companies will act very cautiously about offering coverage. Since they do not know the medical history of the people they are covering, they will be forced to assume the worst case scenario to protect themselves, with only knowledge of age, gender, tobacco use, and geographic region tempering those assumptions. And since they are now covering more types of care than ever before, that alone would drive up premium rates.

Counterbalancing these new requirements is the requirement that most Americans obtain health insurance coverage or pay a penalty—the PPACA's individual mandate. In theory, the two requirements would balance one another out, as younger, healthy people enter the pool to help cover the new, higher claims. But insurance companies have no guarantee that this will happen, because individuals can choose to simply pay the penalty instead of buying insurance. The penalty is minimal, as low as $95 per year for an adult individual in the first year (2014), so there will be little to keep premium rates from rising in the early going.

One additional change is that if you offer health insurance coverage to anyone in the company, it must be offered to everyone.

This affects businesses that, perhaps, just offered coverage to senior management or other select groups of employees. That is no longer an option for employers.

Health Care Reform Timeline

The PPACA's health care reforms are being implemented in stages, with some pieces going into place as early as 2010 and the final pieces only going into effect in 2018. The bulk of the law, however, becomes effective on January 1, 2014. Here are some of the relevant changes that will take effect in the coming years.

January 1, 2013

New taxes and limits on tax benefits will kick in to help pay for the cost of reform:

- ***Medicare Tax on Wages***. An additional 0.9 percent Medicare tax on wages and self-employment income of higher-income individuals. The additional Medicare tax applies to individuals with remuneration in excess of $200,000; married couples filing a joint return with incomes in excess of $250,000; and married couples filing separate returns with incomes in excess of $125,000.
- ***Medicare Tax on Unearned Income***. A 3.8 percent Medicare contribution tax on unearned income. The tax is imposed on the lesser of an individual's net investment income for the tax year or modified adjusted gross income in excess of $200,000 ($250,000 for married couples filing a joint return and $125,000 for married couples filing a separate return). Investment income is income derived from rents, dividends, interest, royalties, capital gains on property sales other than primary residence, etc.
- ***Medical Device Tax***. A 2.3% excise tax on medical devices begins and will be passed along to consumers.
- ***Flexible Spending Account Caps***. Pre-tax contributions to healthcare flexible spending accounts are capped at $2,500 per year.
- ***Deduction Restrictions***. Fewer personal medical deductions will be allowed on Schedule A of Form 1040 as the threshold at which medical expenses are deductible increases from 7.5% of adjusted gross income to 10%.

Also in 2013, the Consumer Operated and Oriented Plan (CO-OP) Program will be established, which will foster the creation of qualified nonprofit member-run health insurance issuers to offer competitive health plans in the individual and small group markets.

January 1, 2014

- ***Community Rating***. Insurance market reforms take effect and insurers cannot impose coverage restrictions based on pre-existing conditions. Modified community rating standards go into effect for individual or family coverage. Insurers must offer coverage to anyone. The law also limits out-of-pocket cost-sharing.
- ***Expanded Coverage***. Small-business and individual insurance policies must cover a list of "essential health benefits." The law specifies that the Secretary of HHS shall determine the list of benefits. However, a regulation written subsequent to the law's passage shifted that role at least temporarily to the states.
- ***Insurance Exchanges***. Health insurance exchanges open**-** American Health Benefits Exchanges for individuals and Small Business Health Options Plan (SHOP) Exchanges for small businesses.
- ***Caps on Deductibles***. Deductibles are capped for health plans in the small-group market at $2,000 for individuals and $4,000 for families, except under certain circumstances.
- ***Individual Mandate***. Individual mandate takes effect. Most individuals, who choose not to buy health insurance coverage, whether through their employer or an exchange, must pay an annual penalty. Note that the penalty is generally calculated by taking the greater of a flat dollar amount and a calculation based on a percentage of the individual's household income, and is imposed on a monthly basis (one-twelfth per month of this 'greater of ' amount). The annual flat dollar amount is assessed per individual or dependent without coverage and is scheduled to be phased in over three years ($95 for 2014, $325 for 2015, and $695 in 2016 and subsequent years, indexed for inflation after 2016; one-half of these amounts for individuals under the age of 18). The flat dollar amount is compared to a percentage of the extent to which the taxpayer's household income exceeds the income tax filing threshold. The applicable percentage is 1 percent for 2014, 2 percent for 2015, and 2.5 percent for 2016 and subsequent years. The individual's penalty is equal to the greater of the flat dollar amount or the percentage of household income. The amount cannot exceed the national average of the annual premiums of a "bronze level" health insurance plan offered through a health exchange. Individuals pay the penalties for themselves and their spouses and dependents, if applicable, on their personal income tax returns.
- ***Premium Assistance Tax Credit***. A Premium Assistance Tax Credit is available to lower income individuals who meet certain eligibility criteria. Individuals claim this tax credit on their personal income tax returns.

- ***Health Insurance Tax***. A new Health Insurance Tax (HIT) will be imposed. This tax will fall on health insurance plans purchased in the fully-insured market (mostly small businesses and individuals). Employers with self-insured plans (mostly big businesses, labor unions, and governments) will not have to pay this tax.

January 1, 2015

- ***Employer Mandate***. Employer mandate takes effect requiring employers with 50 or more full-time employees to offer health insurance coverage or pay with certain exceptions a $2,000 penalty per employee. Note that the penalty will apply to employers with 50 or more workers, but an employer's first 30 workers are subtracted from the payment calculation. (Updated July 2, 2013: This item was originally scheduled to take effect January 1, 2014, but has been delayed.)

Options for Small Business Owners

With all these changes, small business owners will be faced with some difficult choices, depending on their current situation. And while hiring decisions should not be based solely on the PPACA's new requirements, here are some of the different scenarios and options come January 1, 2014.

If you currently offer health coverage:

- Keep your current coverage at higher rates.
- Cancel the plan, putting everyone, including both employees and business owners, onto the healthcare exchanges.

If you do not currently offer coverage, but larger competitors will:

- Do not offer coverage, putting employees on the exchanges.
- Offer coverage, but at a competitive disadvantage with large companies who are not subject to community rating.

If you do not currently offer coverage, nor do most others in your industry:

- Stay under 50 employees.
- Expand to over 50 employees, requiring you to offer health insurance as of January 1, 2015, or pay the per-employee penalty.