



***** IMPORTANT BULLETIN *****

TO: ALL LARGE GROUP EMPLOYERS (51+ EMPLOYEES)
FROM: GREENBERG & ASSOCIATES INSURANCE, LLC.
DATE: FEBRUARY 21, 2014
RE: HEALTHCARE REFORM UPDATE – FEDERAL EMPLOYER MANDATE DELAYED

On February 10, 2014 the Department of Treasury released the Final Rules for the Employer Shared Responsibility compliance requirements under the Affordable Care Act. The final rules issued last week will allow a phasing in of the Employer Mandate (also known as the Employer Shared Responsibility and Pay or Play Provisions).

As you'll recall from earlier bulletins, the Employer Mandate requires employers with 50 or more full-time equivalent employees to offer affordable health coverage that meets minimum value to all Full-time employees working at least 30 hours per week and their dependent children, or face paying a penalty. The original Mandate was to be effective January 1, 2014, but, was delayed in 2013 to January 1, 2015. Under the Final Rules issued last week, however, "some" business will now have even more time to comply:

- Mid-Sized Groups with 50 to 99 Full Time Equivalent Employees (FTE) will now have until 2016 to comply. To be eligible, an employer will have to go through a certification process to demonstrate that during a period beginning on February 9, 2014, and ending on December 31, 2014, the employer did not reduce the size of its workforce or the overall hours of service of its employees in order to satisfy the workforce size condition.
- Large groups as defined by ACA (100+ FTE) will have until 2015 to comply.

Other key features of the Final Rules are as follows:

- Safe Harbors were retained in the Final Rules for employers with Non-Calendar year plans. As an example, employers with plans that begin or renew after January 1, 2015, must comply with the provisions as of the first day of their renewal period in 2015.
- Large Employers with 100+ FTE subject to the requirements in 2015 must offer coverage to at least 70 percent of their full-time employees. The original requirement of 95 percent has been delayed to 2016.
- Employers that currently do not offer coverage to dependents are permitted to wait until 2016 to offer them coverage.
- Employers can use a six-month "look-back" period to determine whether they had at least 100 full-time or full-time equivalent employees in the previous year, which aligns with the phasing in of the penalties.
- In 2014, employers may use a six-month measurement period to determine the stability period during which employees with variable hours must be offered coverage.

- The final rules retained safe harbors for employers to determine the affordability of the employer coverage. The regulations confirm that employers can use W-2 wages, hourly rates or the federal poverty level to determine whether the coverage they offer is “affordable”. If using the W-2 safe harbor, full W-2 wages must be used and cannot be reduced for salary reduction elections under a 401(k) plan or a cafeteria plan.
- Final rules also gave further guidance regarding volunteers who work for government and tax-exempt entities, seasonal workers, students in work-study programs, student interns, teachers and adjunct faculty. (These rules are very complex, therefore, it is recommended you seek guidance from your tax advisor or CPA regarding these classes of employees if you are concerned.)
- The final rules also changed the calculation for employers not offering coverage under section 4980H(a) in 2015. The original penalty for the failure to offer coverage was \$2,000 x full-time employees not covered, minus the first 30 employees, i.e. your first 30 full-time employees are exempt from the calculation. For 2015 only, employers may subtract the first 80 employees.
- The full-time employee definition remains at 30 hours or more per week. However, the definition of dependent has been revised to exclude stepchildren and foster children. It also continues to exclude spouses.

For additional information please visit: <http://www.irs.gov/uac/Newsroom/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act>

You can download a complete copy of the Final Rules or refer to their extensive Q & A’s available at this link as well. Please don’t hesitate to let us know if you have any questions.

Sincerely,

Sharon Greenberg & Adrienne Hutchins