Sage Abra HRMS | Planning Guide

The Healthcare Reform Survival Guide

Checklists and explanations to help you meet changing health benefits compliance mandates

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The Healthcare Reform Survival Guide addresses the following areas:

Welcome to Healthcare Reform

The Patient Protection and Affordable Care Act (PPACA), signed into law by President Obama on March 23, 2010, and the amendments made by the Healthcare and Reconciliation Act of 2010 (together, known as the Affordable Care Act), have significant employment tax and information reporting implications.

The ramifications of healthcare reform in general, and its impact on employers specifically, continue to cause tremendous political debate. Employers are confused. Guidance is forthcoming but still inadequate. Political tensions are running high. Fortunately, the requirements of the Affordable Care Act are being phased in over a period of eight years, with only limited provisions effective in 2010.

The bill passed. Now we can find out what's in it.

By now, you've probably heard about many of the provisions in the Affordable Care Act. Of particular note are a number of new healthcare reporting requirements that are needed to assist in the enforcement of the various health coverage requirements that will be required of individuals, employers, and insurers, with staggered effective dates beginning in 2011 and through 2014; an additional Medicare withholding tax that takes effect in 2013; and, effective in 2012, an expansion of the current information reporting requirements to include, with limited exceptions, reporting of payments made to corporations.

Did you know?

Although the stated goal of reform is cost reduction, that's not the result so far. In a survey of large employers, Hewitt Associates found the current rate of healthcare cost increase is the largest in five years.

There are also some hidden surprises. This survival guide will address the changes facing employers. You'll find explanations of compliance issues, checklists of what your company should be doing, and a calendar of important effective dates.

A word of caution: Additional guidance about healthcare reform is being released by the Internal Revenue Service (IRS), the Department of Labor (DOL), and the Department of Health and Human Services (HHS) every month. The National Association of Insurance Commissioners (NAIC) is also weighing in. There are still more questions than answers. A good overview can be found at: www.healthcare.gov.

It's important that you stay on top of rapidly changing rules and guidance. There will be court cases and judicial opinions. And with a new Congress, there could be additional legislation.

Keep up with changes on dynamic HR resource sites such as SHRM. Access the latest healthcare reform guidance on the appropriate agency websites. And speak with your company's employment law specialists as you craft necessary changes to your benefits plans.

Big Question—to Insure or Not?

Are you weighing the pros and cons of continuing to provide healthcare benefits to your workforce? Here's what you need to know.

It's the question on everyone's mind—employers, employees, benefits managers, health insurers, and government officials. Will businesses continue to provide private health insurance benefits to employees? Or will it be less expensive for them to pay the fines and send employees to the future state-run insurance exchanges?

Quick Check: Is Your Company Exempt?

The first question your CEO may ask you about healthcare reform is whether your company is legally required to offer health insurance benefits in the first place. The answer depends on whether your business employs more than 50 full-time-equivalent (FTE) employees.

Calculate FTE employees:

Divide each part-time employee's monthly hours by 120. Add all part-time employees' numbers together. Combine that number with the number of full-time employees (work 30+ hours per week).

Example: You have 47 full-time employees and seven employees who each work 93 hours per month.

Part-Time	Full-Time	Total FTE Employees
7 x (93 hours/120)	= 47	= 52.425
= 5.425		

If you have fewer than 50 FTE employees, your company isn't required to provide healthcare benefits. You could also discontinue healthcare benefits for your workers in the future, should the financial obligation become too great. According to an FAQ from Senator Whithouse, 96% of all U.S. businesses fit this category. But if your company chooses to offer coverage anyway, you must comply with plan design requirements and other aspects of the Affordable Care Act.

What's less expensive—fines or healthcare coverage?

If your company employs more than 50 FTEs, you'll need to analyze the costs and benefits of providing an employer-sponsored health plan.

Starting in 2014, companies that fail to offer affordable, quality healthcare will pay a "Free Rider Surcharge." This fee is complicated; much more guidance will be needed to calculate it. But it could cost as much as $2,000 to $3,000 per FTE employee. The first 30 FTEs won't count.

If you pay the Free Rider Surcharge, it is not deductible from corporate taxes, whereas employee health benefit costs are deductible.

There are other important considerations. If you provide healthcare now but later stop, how will it affect employee morale? Will you have trouble retaining good employees and suffer increased turnover costs?

Employer Checklist 2010

Pay careful attention to the items on the next two pages with 2010 effective dates, as these provisions are already in effect. If your company is not in compliance—take action now!

Past Due: Are You Compliant?

- ☐ Determine if your health plan is “grandfathered.”
- ☐ Implement mandated healthcare plan design changes.
- ☐ Submit transparency disclosures to Secretary of HHS and make information public. (see Compliance in this guide).
- ☐ Establish a private space and breaks for nursing mothers.
- ☐ Determine if your company qualifies for a tax credit.

Quick Check: Does Your Business Qualify for a Tax Credit?

If your company employs fewer than 25 people and pays less than $50,000 in average annual wages, you can receive a tax credit of up to 35% of the cost of employer premiums. Nonprofit organizations can receive a credit of up to 25%. The credit provides relief retroactively, beginning in January of 2010. In 2014, the amount of the credit will increase to up to 50% of your cost for healthcare plan premiums (35% for nonprofits).

Key Effective Dates

January 1, 2010:

Eligibility begins for the **Small Business Health Insurance Tax Credit.**

March 23, 2010:

Patient Protection and Affordability Care Act signed into law by President Obama (as amended, known as Affordable Care Act).

Existing health plans can be “grandfathered” and temporarily avoid some, but not all, of the restrictions of the Affordable Care Act.

Fair Labor Standards Act (FLSA) is amended to provide space for nursing mothers. Employers must provide nursing mothers with “reasonable” unpaid breaks for pumping breast milk. Employers must provide a private space for these breaks which is private and cannot be a bathroom. Companies with fewer than 50 employees may be exempt if providing such a space imposes undue hardship.

March 30, 2010:

Plan coverage is available tax-free to children younger than 27 whose parents belong to an employer-sponsored health plan.

Will kids ever leave home?

Don’t count on it! The Affordable Care Act is very generous to adult children. To remain covered by a parent’s plan, adult kids (younger than 27):

- Can be married or unmarried.
- Can be students, workers, or unemployed.
- Do not have to live with the employee, or in the same state.
- Do not have to qualify as a dependent on a parent’s tax return.
- Can be eligible for their own health benefits through an employer but remain on your plan! If your plan is new or has lost grandfathered status, this is true now; if not, it takes effect in 2014.

Key Effective Dates

September 23, 2010:

Mandatory plan design changes take effect for future plan years impact all employer-sponsored healthcare plans, including new plans, grandfathered plans, and retiree plans.*

These changes include:[1]

- Most children under 27 can be insured by parents (exception for grandfathered plans).
- Insurance cannot be canceled retroactively, except in limited circumstances such as fraud.
- No lifetime limits.
- "Reasonable" annual limits until 2014. Further guidance needed to define reasonable.
- Ban on preexisting conditions for children under 19.

*More changes are required for retiree health plans, but are outside the scope of this guide.

Additional changes required for new plans and existing plans that lose grandfathered status:

- Provide 100% employer coverage of preventative care.
- Fully insured health plans cannot discriminate in favor of highly paid employees.
- Plan must have an internal process for claims appeals. DOL issued a grace period for enforcement until July 1, 2011.[2]

January 1, 2011:

Over-the-counter drugs are no longer reimbursable from Flexible Spending Accounts (FSA) and Health Savings Accounts (HSA). Only prescription drugs and insulin will qualify for reimbursement—this is a major change for employees.

The penalty for unqualified reimbursements from an employee's HSA increases to 20%. That penalty is on top of paying tax at the employee's regular U.S. income tax rate.

Quick Check: Is Your Plan Grandfathered?

To retain grandfathered status, you may only add or delete employees and make minor changes to plan design. According to a DOL fact sheet, plans with grandfathered status may not:[3]

- Significantly cut or reduce benefits.
- Raise coinsurance rates.
- Significantly raise deductibles.
- Significantly lower employer contributions.
- Add or tighten an annual limit on what the insurer pays.
- Change insurance companies. This last rule is especially challenging for smaller businesses, which often shop around to limit runaway premium increases.

1 U.S. Government, "Fact Sheet: Keeping the Health Plan You Have: The Affordable Care Act and Grandfathered Health Plans," 2010.
2 Seyfarth Shaw, "An Employer's Guide to Healthcare Reform," April 15, 2010.
3 U.S. Department of Labor, "Technical Release No. 2010-02," September 20, 2010.

Employer Checklist: 2012 and Beyond

Effective dates spread out from 2012 through 2017 as healthcare reform is implemented in phases. The following is a brief overview of the next few years, but remember, this information is likely to change as new guidance is issued, federal budgets are planned, political administrations change, and court cases are decided. If a specific effective date is not noted, all items take effect on January 1 of the respective year.

2012

Comparative effectiveness fee of $1 per plan participant owed by employer.

2013

Tax year 2012 Forms W-2, issued in January 2013 must include information about the value of employer-provided healthcare.

Flexible spending account (FSA) capped at $2,500 of employee contributions.

Medicare tax increase for high earners.

Comparative effectiveness fee will be raised to $2 per plan participant.

Tax on retiree drug subsidy would eliminate the ability for employers to take a deduction equal to the amount of subsidy a retiree receives.

2014

State-Based Exchanges will be open for business.

The **individual mandate** requiring all persons to have health insurance coverage will be enforced.

Free choice vouchers must be offered to employees who meet poverty criteria.

Free rider penalty will be assessed if any employee's cost of coverage exceeds 9.8% of household income and at least one employee purchases insurance through the exchange.

No preexisting condition exclusions allowed for any person.

Employers must provide **healthcare coverage certification** for full-time employees.

Waiting periods for eligibility cannot exceed 90 days.

Employers offer coverage for **clinical trials for life-threatening diseases**.

No annual limits on essential benefits.

Employee out-of-pocket expenses cannot be greater than the current limits for high-deductible health plans ($5,950 for individuals, $11,900 for families).

Increased wellness program incentives will be made available.

Notification Checklist:

The Affordable Care Act includes seven new notifications that employers must provide to employees:[4]

- ☐ Notice of key plan design changes. Inform employees of current plan changes that will become effective January 2011. Distribute during your 2011 open enrollment. Unless you are self-funded, your insurance carrier should provide this.
- ☐ Summary of material changes (2012). Notify employees of any important changes you will make for the following year. Send this notice 60 days prior to enrollment. Expect guidance from the Secretary of HHS by March 2011.
- ☐ Uniform explanation of coverage (2012). Briefly describe your company's medical plans, in clear, plain language, within four pages, 12-point font.
- ☐ Description of all disease management programs (2012).
- ☐ Automatic medical enrollment and opt-out actions (TBD—likely 2013.)
- ☐ Notification of exchanges and "free choice vouchers" (2013).
- ☐ Description of claims process (TBD).

Follow these links to check for additional DOL guidance and model notices as well as guidance from HHS.

Did you know?

The IRS is preparing to fully enforce the tax aspects of the Affordable Care Act. The agency is hiring 16,000 new agents for enforcement!

New W-2s for Tax Year 2012.

To prepare for enforcement of the 2018 excise tax on high-value plans, as well as to heighten transparency to employees, the IRS will require employers to report the value of healthcare coverage on employees' W-2 forms. Employees will not be taxed on this value. Recently, the IRS delayed implementation until tax year 2012, for W-2s issued in January 2013.[5]

Transparency Disclosures

For plan years beginning after September 23, 2010, employers must send the Secretary of Health and Human Services (HHS) information about how claims are paid, how costs are shared with employees, how policies are rated, out-of-network coverage, and employees' participant rights. Further guidance may require additional information, too. These disclosures must also be made available to the public and employees.

4 Jennifer Benz, "Key notification and communication requirements in health care reform," Employee Benefit News, October 1, 2010.

5 Internal Revenue Service, " IRS Releases Draft W-2 Form for 2011; Announces Relief for Employers," October 12, 2010.

How Automation Can Help

Make no mistake, there's a lot of work ahead for HR professionals and benefits managers in order to comply fully with the Affordable Care Act. A Human Resources Management System (HRMS) is designed to centralize HR and benefits information, so you can easily access the data you need for compliance and decision making. An HRMS can ease the burden of implementing the Affordable Care Act by helping you:

- **Stay current with compliance requirements.** An HRMS receives regular software updates that keep the system updated for legislative changes, such as the Affordable Care Act. This means that you would not have to do all of the research to stay in compliance. Your HRMS solution would include things like employee notifications, revised forms, and more. It would also help keep your company in compliance with EEO-1, EEO-4, I-9 Citizenship Verification, Vets-100, Family and Medical Leave Act (FMLA), and OSHA record-keeping requirements.
- **Better track and manage benefits plans.** An HRMS allows you to define and set up unlimited benefit plans and carefully track the costs associated with each plan. You can also project future costs.
- **Simplify record-keeping and improve data accuracy.** With all of your data in one central location, it's easier to determine which of your employees participate in each benefit plan. An HRMS greatly reduces the risk of inaccurate data in your database.
- **Communicate more effectively with employees.** An HRMS enables you to produce employee communications more easily. Announcements can be distributed in an online secure portal using employee self-service. Or you can easily use your employee database to create a letter or email and distribute it.
- **Perform open enrollment more quickly and with less expense.** Online benefits enrollment functionality enables employees to choose the benefits packages they want on a secure website. HR can track the status of enrollment and report on results.
- **Calculate accurate payroll.** Integrated payroll software is also updated to reflect current tax rates and rules. It will be ready to produce the new W-2s with health coverage costs included when you are required to print and deliver them (January 2013).

About Sage Abra HRMS

Sage is dedicated to providing solutions that will help organizations maximize their return on employee investment (ROEI). Built by HR professionals, Sage Abra HRMS addresses the challenges of human resource management, including HR, payroll, benefits, employee self-service, attendance, recruiting, training, and workforce analytics.

With Sage Abra, organizational leaders receive accurate information securely, when you want it, where you want it. From on-demand information sharing, to process automation and real-time business alerts, Sage Abra is designed to support executive analysis and decision making. Sage Abra helps HR ensure that the mission-critical needs of your organization are met with the employees and programs you need today—and in the future.

To learn more, please visit: www.SageAbra.com

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