2013 PPACA Checklist

How Health Care Reform Is Affecting Employers and Individuals

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Creation of Accountable Care Organizations (ACO)

Effective: 2012

Although this provision became effective in 2012, you should be aware of the Accountable Care Organization (ACO) program when making decisions about where to seek quality medical care.

Small employers: The ACO program will **not** have a direct impact on small employers other than perhaps providing a new coverage option and/or increasing the quality of care.
Large employers: The ACO program will **not** have a direct impact on large employers other than perhaps providing a new coverage option and/or increasing the quality of care.
Individuals: The ACO program will **not** have a direct impact on individuals other than perhaps providing a new coverage option and/or increasing the quality of care.

General: Under section 3022 of the Patient Protection and Affordable Care Act (PPACA), the ACO program seeks to coordinate high-quality care to Medicare patients. The program is supported by Centers for Medicare and Medicaid Services, and attempts to coordinate care among doctors, hospitals, and other health care providers. This approach should lead to a more integrated delivery platform by avoiding needlessly duplicative services, decreasing the likelihood of potential errors, and hopefully reducing federal expenditures. Participants in the federally sponsored ACO program are held responsible for the care of patients but are able to benefit in total savings, a number that may exceed $940 million over two years.

Beyond PPACA, it also should be noted that there are several private-sector ACO initiatives that could offer new health plan options for employer groups.

To view the list of current PPACA-enabled ACOs, visit www.cms.gov or for more information search Accountable Care Organization at: www.benefitmall.com

Increased Federal Insurance Contributions Act (FICA) Withholding

Effective: For wages received after December 31, 2012

Small employers: If you employ high-wage individuals, you must comply with this requirement.
Large employers: If you employ high-wage individuals, you must comply with this requirement.
Individuals: If you earn high wages, your employer must comply with this requirement.

As of January 1, 2013, employers and payroll personnel must withhold an additional 0.9 percent FICA tax against individuals who satisfy the following thresholds:

- For married couples filing jointly: $250,000
- For married couples filing separately: $125,000
- For single individuals: $200,000
- For head of households with a qualifying person: $200,000
- For a qualifying widow(er) with a dependent child: $200,000

The employer must withhold the additional Medicare tax from wages paid above the applicable threshold regardless of the individual's filing status or wages paid by another employer.

Excise Tax on Medical Device Manufacturers

Effective: For sales made after December 31, 2012

Small employers: You will **not** have any direct responsibility to comply with this requirement unless you are a medical device manufacturer or importer.
Large employers: You will **not** have any direct responsibility to comply with this requirement unless you are a medical device manufacturer or importer.
Individuals: You will **not** be subject to this requirement.

The tax, mandated by Section 4191 of the Internal Revenue Code, applies a 2.3 percent tax of the sales price of medical devices. Medical device manufacturers or importers must complete Form 720 and pay the appropriate tax to the IRS. Consumers will likely be subject to increased prices as manufacturers pass on the cost of the tax. Some in Congress are trying to rescind the tax, so please continue monitoring www.benefitmall.com for updates.

Health Flexible Savings Account (FSA)

Effective: January 1, 2013

Small employers: If you sponsor a health FSA for your employees, this requirement will apply to you. You will have until the end of 2014 to amend your plans to reflect the new $2,500 limit, but you must operate in compliance with the limit beginning with plan years on or after January 1, 2013. You must also communicate the limit to your employees to allow them to make salary reduction elections.
Large employers: If you sponsor a health FSA for your employees, this requirement will apply to you. You will have until the end of 2014 to amend your plans to reflect the new $2,500 limit, but you must operate in compliance with the limit beginning on January 1, 2013. You must also communicate the limit to your employees to allow them to make salary reduction elections.
Individuals: If you participate in a health FSA sponsored by your employer, this requirement may apply to you.

For plan years beginning after 2012, section 125 (i) of the Internal Revenue Code imposes a $2,500 limit on salary reduction contributions to a health FSA. This limit does not apply to employer nonelective contributions to a health FSA (or a dependent care FSA), an HSA, or an HRA.

Loss of Deduction for Retiree Drug Subsidy

Effective: January 1, 2013

Small employers: If you are authorized by the Medicare Modernization Act of 2003 to a tax-free subsidy of 28 percent of the costs incurred to provide a prescription drug benefit program to your retirees, you will be subject to this change.
Large employers: If you are authorized by the Medicare Modernization Act of 2003 to a tax-free subsidy of 28 percent of the costs incurred to provide a prescription drug benefit program to your retirees, you will be subject to this change.
Individuals: You will **not** have any direct responsibility to comply with this requirement.

After 2012, employers will still be provided with the tax-free subsidy, but the subsidy is not deductible on their federal tax returns.

Q. How does the PPACA limit employer deductions for retiree drug coverage?
A. The final PPACA provision relating to employers concerns the tax-free subsidies afforded to employers who provide drug coverage for their retirees.

Prior to January 1, 2013, employers were authorized by the Medicare Modernization Act of 2003 to a tax-free subsidy of 28 percent of the costs they incur to provide a prescription drug benefit program to their retirees. Employers are also permitted to deduct any outlays made with these subsidies to provide retiree drug coverage for income tax purposes. This legislation was intended to provide relief by reducing the coverage gap, known as the doughnut hole, for individuals in the Medicare Part D program.

Under PPACA, employers will still receive the tax-free subsidy after 2012, but they will no longer be able to deduct on their federal tax returns the cost of the prescription drugs to the extent reimbursed by the federal subsidy.

Q. What type of economic impact will this have on businesses?
A. The economic impact of this provision should not be underestimated. Even though this provision did not become effective until 2013, its impact on a company's bottom line could be significant. A Towers Watson study estimates that the total cost for U.S. corporate financial statements would be $14 billion if companies do not shift their retired employees out of drug subsidy plans. An American Benefits Council study concluded that between 1.5 million and 2 million retirees would have their drug coverage terminated because employers would be forced to shift them into Medicare Part D coverage.

This provision may have an unanticipated impact of losing the federal government a substantial amount of money. James A. Klein, president of the American Benefits Council, explains, “The $4.5 billion figure only looks at the revenue from the tax; it does not take into account the increased government outlays as retirees are moved to the Medicare Part D program. As more retirees are moved, the revenue collected will go down and the government expense in Medicare will go up.”

New Net Investment Income Tax

Effective: January 1, 2013

Small employers: Individuals within your organization may be subject to this requirement.
Large employers: Individuals within your organization may be subject to this requirement.
Individuals: If you have net investment income, you may be subject to this requirement.

The new 3.8 percent tax, imposed by Section 1411 of the Internal Revenue Code, will apply to individuals, estates, and trusts that have certain investment income above threshold amounts. The tax will apply if individuals have net investment income and modified adjusted gross incomes above the following amounts that are not indexed for inflation:

- Married filing jointly: $250,000
- Married filing separately: $125,000
- Single: $200,000
- Head of household with a qualifying person: $200,000
- Qualifying widow(er) with dependent child: $250,000

Estates and trusts are subject to the tax if they have undistributed net investment income and adjusted gross income over $11,650 for 2012.

For more information, please see the Q&A issued by the IRS at:
www.irs.gov/uac/Newsroom/Net-Investment-Income-Tax-FAQs

Increasing Medicaid Payments for Primary Care Doctors

Effective: January 1, 2013

Small employers: Will **not** directly impact small employers unless you are primary care physician employer.
Large employers: Will **not** directly impact large employers unless you are primary care physician employer.
Individuals: This does **not** impact individuals.

In preparation for Medicaid programs covering more patients, the federal government will increase Medicaid payment rates to primary care physicians in 2013. Part of this will be to address disparities between specialists and primary care providers. Many public policymakers have expressed concerns about potential primary care doctor shortages with the growing numbers of Americans who will be insured due to PPACA.

Employer Expanded W-2 Reporting Requirements

Effective: January 1, 2013

Small employers: Employers that filed fewer than 250 W-2 forms for the preceding calendar year are not subject to this requirement.
Large employers: If you filed more than 250 W-2 forms in the preceding calendar year, you are subject to this requirement.
Individuals: You will **not** have any direct responsibility to comply with this requirement.

As of January 1, 2013, certain employers must report the cost of health care coverage provided under an employer-sponsored group health plan on employees' W-2 forms. This requirement became effective as of January 1, 2012, but was deferred by making the requirement optional for employee's tax year 2011 W-2 forms. The requirement is now effective for employee tax year 2012 W-2 forms issued in 2013. The IRS has provided some additional relief to employers who issue fewer than 250 W-2 forms in the previous calendar year, as those employers do not have to report health care costs on Tax Year 2012 W-2 forms. Likely, employers that filed fewer than 250 W-2 forms in the previous calendar year will eventually be tasked with complying with this requirement once further notice is given by the IRS.

More information can be found by searching W-2 Reporting Requirements at:
www.benefitmall.com

Expanded Authority to Bundle Payments

Effective: No later than January 1, 2013

Small employers: Not applicable to small employers, but providers may be subject to this requirement.
Large employers: Not applicable to large employers, but hospitals, doctors, and other providers may be subject to this requirement.
Individuals: Not applicable to individuals or the small group market.

Under this requirement, a Medicare pilot program will develop and evaluate making bundled payments, so that providers are paid a flat rate for an episode of care.

Higher Income Threshold to Take Advantage of Itemized Deduction of Medical Expenses

Effective: Tax years beginning after 2012

Small employers: Small employers will **not** have any direct responsibility to comply with this requirement.
Large employers: Large employers will **not** have any direct responsibility to comply with this requirement.
Individuals: Individuals and married couples may be subject to a higher income threshold to take advantage of itemized deductions for medical expenses if they are under the age of 65.

Beginning in 2013, the adjusted gross income threshold for itemized deductions of unreimbursed medical expenses increased from 7.5 to 10 percent. Those over the age of 65 are waived from this requirement until 2017.

Small Employer Tax Credits

Effective: Current small employer tax credit rates are effective through 2013; Enhanced credit will be available on January 1, 2014.

Small employers: If you employ fewer than 25 full-time equivalent employees with average annual wages of less than $50,000 and contribute to employees' qualified health care coverage a uniform percentage not less than 50 percent of premium costs, you are eligible to take advantage of this requirement.
Large employers: Employers with more than 25 full-time equivalent employees are **not** eligible for these tax credits.
Individuals: Individuals may be eligible for tax credits; however, this requirement does **not** apply directly to individuals.

Small employers that satisfy the criteria have been eligible to receive tax credits since 2010. For tax years 2010 through 2013, the maximum credit is 35 percent for small businesses and 25 percent for small tax-exempt employers. An enhanced credit will be available January 1, 2014.

Establishing Affordable Insurance Exchanges

Effective: States must notify the Secretary of HHS by January 1, 2013; Exchanges must be operational by October 1, 2013 in time for January 1, 2014 open enrollment.

Small employers: Employers with fewer than 101 full-time equivalent employees are eligible to purchase health insurance coverage through Exchanges. (In some states, this number may be as low as 50 employees.)

Large employers: Large employers with more than 100 employees are **not** eligible to purchase health insurance coverage through Exchanges.
Individuals: For coverage beginning in 2014, individuals will be eligible to purchase insurance through Exchanges.

The deadline for states to relay their intent to establish a state health insurance Exchange was January 1, 2013, for a state-based Exchange, and until February 15, 2013, to opt for a partnership Exchange. These Exchanges must be operational by October 1, 2013, in time for open enrollment for effective dates of January 1, 2014, and thereafter when the individual mandate becomes effective.

Exchange Notification Requirement

Delayed until late summer/early fall 2013

Small employers: If a small employer is subject to the Fair Labor Standards Act, the organization must comply with this requirement.
Large employers: If a large employer is subject to the Fair Labor Standards Act, the organization must comply with this requirement.
Individuals: You will **not** be subject to this requirement.

Employers must provide employees with written notices about new health insurance benefit Exchanges on or after the effective date. This notice must be given to new hires and to those who are already employed. The Department of Labor has not yet issued the form notice, and the requirement was recently delayed for an indefinite period of time.

Extension of the Children's Health Insurance Program (CHIP)

Effective: Fiscal year 2013

Small employers: Small employers will **not** have any direct responsibility to comply with this requirement.
Large employers: Large employers will **not** have any direct responsibility to comply with this requirement.
Individuals: Individuals will **not** have any direct responsibility to comply with this requirement.

The authorization and funding of CHIP was due to end after fiscal year 2013. This requirement extends the CHIP program through fiscal year 2015.

Please visit the following websites to stay up to date on the latest heath care reform news and information:
www.benefitmall.com
www.healthcareexchange.com

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The information contained in these materials was drafted prior to the July 2 announcement that many employer reporting requirements and the Employer Shared Responsibility provision would be delayed to 2015. We have worked to revise these materials to reflect the change, but we will await further federal guidance before updating this information in a comprehensive manner.

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