

ACA Compliance: Focusing on What Can Be Done Now



Much remains up the air, but business owners can take steps to be prepared before the next round of implementation.

Known by many names since it became law in March 2010, the Patient Protection and Affordable Care Act (generally known as the Affordable Care Act, or ACA) represents one of the most sweeping and controversial pieces of legislation Congress has ever passed. Most of us will in some way be personally and financially affected. While regulators—and thus, insurance carriers—still have not given us a complete road map for ensuring compliance in every situation, there are five critical steps that every employer should take now to ensure they are doing what they can to be prepared for 2014 and beyond:

Step One: Ensure Ongoing Compliance With Current Mandates. Regardless of employer group size, every employer-sponsor of group health insurance coverage has had to comply with ACA-related coverage mandates since 2010.

Included in this list of mandates were the requirements to begin offering health insurance to children of other covered employees up to age 26, elimination of pre-existing condition limitations for dependents under age 19, and for “non-grandfathered” plans, coverage for “preventive care” services (now including women’s contraceptives for most organizations) at no cost to the participant. Work with your insurance provider, consultants, brokers and attorneys to avoid significant penalties by ensuring that minimum compliance is

fully undertaken, including further mandates in 2014 to eliminate pre-existing condition limitations for all individuals, among other changes.

Step Two: Ensure All Required Notifications are Sent Each Year. In conjunction with those items set forth above, every employer also needs to understand what required annual notices need to be provided each year, and by when. A new notice, the Notice of Employer Coverage, must be sent by most employers no later than Oct. 1, 2013. A second notice, the Summary of Benefits and Coverage (“SBC”), must be provided no later than the employer’s next open enrollment. Other ongoing annual notices, such as the Women’s Health Cancer Rights Notice, must also continue to be issued annually as well.

Step Three: Be Aware of all ACA-Related Fees. Although unspoken of at the time the law was initially passed, there are several ACA-related fees that are required to help support and offset the various ACA-related programs and services in 2014. Included within these list of fees are the “Patient Centered Outcomes Research Institute” fee, the “Transitional Reinsurance Fee” and for fully-insured group health plans, the “Health Insurance Industry Fee.” Medicare taxes may also be increased for individuals making more than \$200,000 per year. Current

estimates are that such fees will add 2 to 6 percent of additional costs for employer health insurance coverage costs in 2014, in addition to other annual renewal costs. Be aware of the impact and deadline for when these fees and costs need to be paid.

Step Four: Determine Impact of “Pay or Play” Rules. Beginning in 2014, employers who have the equivalent of at least 50 full-time employees (i.e., those working at least 30 hours per week) have an additional responsibility to provide “affordable” health insurance coverage that meets specified minimum coverage requirements.

Otherwise, those employers are potentially faced with paying a statutory penalty of at least \$2,000 (up to \$3,000) per full-time employee if such minimum coverage is not provided. Employers should be working now to determine how many full-time employees they have who are working at least 30 hours per week. Employers with under 50 full-time employees should also be evaluating if they have other related employer groups that must be considered as part of a “controlled group” structure for compliance purposes as well.

Step 5: Determine Other Options to Consider for 2014 and Beyond. Regardless of what employer health insurance coverage options have been provided in the past, now is the time for every employer to reconsider whether those are the best options for the future, and whether the employer is appropriately allocating the monthly premium costs to employees in an equitable manner. The employer should also determine what dependents should be covered now that other ACA-related health insurance coverage options will exist. Lastly, the employer should be financially motivating employees to become more actively engaged in their own behavior to become healthier and statistically reduce future health-insurance costs.

These are just a few of the key steps that can be taken today that will assist all employers in meeting their current and future ACA compliance challenges. **I**

Here are five critical steps every employer should take to ensure they are doing what they can to be prepared for 2014 and beyond.

Brian Johnston
chairs the employee
benefits and executive
compensation practice
for Polsinelli, PC.
P | 816.360.4319
E | bjohnston@
polsinelli.com