

Affordable Care Act: Are We There Yet?

ASBO

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Review

- 2015 has been the year of the Employer Mandate
- Measurement periods, administrative periods, stability periods for part-time, variable hour and seasonal employees
- Offers of coverage
- 2016 will be the year of Reporting Requirements



Top 10 Questions in 2015

Q1 – What should offer of coverage look like?



A1 – No particular form is required, but the offer should be made in writing and allow the employee to either elect or decline coverage.



Offers of Coverage

- Ask employees to affirmatively elect or decline in writing
- Decline form will be evidence of offer in the event a penalty is improperly assessed
- Get this every year
- Retain letter offering coverage and make sure it has a deadline for electing coverage



Top 10 Questions in 2015

Q2 – What if coverage was not accepted by the deadline provided in the letter offering coverage?

A2 – Coverage is no longer available. The employee will receive another offer if he or she satisfies the full-time employee definition the following year.



Failing to Elect Coverage

- Background: An employee is sent a timely offer of coverage with an enrollment deadline of June 20, 2015. Employee goes onto PEIA website but did not fully complete registration process. Employee was contacted numerous times by board office. In August, employee requested coverage effective September 1.



Failing to Elect Coverage

- Employees eligible for coverage by virtue of hours worked during a measurement period must elect coverage during the administrative/open enrollment period
- Failure to elect during this period results in no coverage for the applicable stability period



Failing to Elect Coverage

- Treat this employee like any other employee who failed to enroll during open enrollment
- Consider extenuating circumstances?
- What if PEIA permits the late enrollment?



Failing to Elect Coverage

- Offer of coverage was made, so obligation under ACA is satisfied – no penalty
- You will report that this employee received offer



Top 10

- Q3 – If a part-time employee is eligible under the PEIA plan and declines coverage, do we also track the hours worked by the part-time employee during the measurement period and offer coverage again for the stability period?



Top 10

- A3 – No. Although not addressed by regulations, a part-time employee who is eligible for coverage by virtue of hours worked should receive an offer of coverage in accordance with plan terms.
- This employee would not be subjected to a measurement period. In this sense, treat as a full-time employee.



Part-time Employees

- PEIA may object to multiple offers of coverage made for the same time period
- Recall that penalties are assessed monthly – you must show that offers of coverage were made for each month
- As long as an offer was made for each month, no penalty should be assessed



Top 10

- Q4 – Are employers permitted to count actual hours worked for bus aides hired to work 2 hours/day during the school year?
- A4 – It depends on what your resolution says about how you will count hours of service.



Hours of Service Model Resolution

- Hourly employees are credited with one hour of service for each hour actually worked (actual hours worked)
- Salary employees are credited with eight hours of service if they work even one hour in a day, unless exempted (days worked equivalency method)



Hours of Service Exemptions

- Employers may choose to exempt certain job categories from the days worked equivalency method
- If exempted, job category must be truly distinct from other job classifications, and all employees in that job category must be treated similarly



Hours of Service Exemptions

- If exempting certain job categories from days worked equivalency method, should do so in resolution
- Some counties included exemptions in their resolution



Top 10

- Q5 – May a part-time employee who qualified for coverage during a measurement period continue to be enrolled under the PEIA plan if he or she accepts another part-time job but continues to work for the county board?
- A5 – Yes.



Part-Time Employees with Other Employment

- As long as the employee remains employed by the Board and pays required premiums, he or she may continue to be covered during the entire stability period
- Other employment will not affect this under these circumstances
- Board will be required to report that it made offer to this “full-time” employee



Top 10

- Q6 – If a variable hour employee qualifies for coverage during a measurement period, must we offer him or her coverage if the employee already has coverage through Medicare?
- A6 – Yes.



Medicare-Covered Employees

- Treated like other full-time employees
- If qualify for coverage during measurement period, must make offer of coverage
- Medicare enrollees are not entitled to a premium tax credit
- 95% coverage requirement under reporting rules will include these employees

Top 10

- Q7 – Will a penalty be assessed if we make a mistake and fail to offer coverage to just one employee?

Top 10

- A7 – No. You must offer coverage to “substantially all” full-time employees. In 2015, “substantially all” means 70% of full-time employees. In 2016, it means 95% of employees.

Caution – simplified reporting methods require 98%

Top 10

- Q8 – If an employee separates from service during a stability period and returns to work during the same stability period, is he/she eligible for coverage upon return to service?



Top 10

- A8 – Yes, as long as the break in service is less than 26 weeks and the rule of parity does not apply. Coverage must be offered no later than the first day of the month following the return to work.



Top 10

- Q9 – What do we do about employees who are a fraction of an hour away from satisfying the 30 hours/week threshold?
- A9 – Adopt a consistent practice for rounding that is applicable to all.
- Consider rounding up to nearest whole number but technically not required



Top 10

- Q10 – How are hours counted for employees with more than one job?
- A10 – Combine all hours worked.



Employees with Multiple Jobs

- If any employee works as a substitute teacher during the school year and a summer employee during the summer break, combine all hours worked and divide by all weeks worked (excluding breaks of 4 weeks or more and other special unpaid leave)



Reporting Requirements

- Reporting required in 2016 for coverage offered in 2015
- Under tax code sections 6055 and 6056, employers must *compile monthly*, and report annually, numerous data points to the IRS and their employees
- Data used to verify the individual and employer mandates



Reporting

- Report to employees by January 2016 and to IRS by March 2016
- The data reported is based on what happened in 2015
- Reporting forms and instructions available



Section 6055

- Section 6055 Return
 - Determines whether minimum essential coverage is provided
 - Applies to insurers and governmental plans
 - Used to enforce the individual mandate which requires individuals to purchase coverage or pay penalty



Section 6056

- Determines whether large employer (50 plus employees) owes penalty and whether employees are eligible for premium tax credits



Section 6056 Reporting

- Focuses on full-time employees
- Certify whether coverage was offered each calendar month to full-time employees and dependents

Section 6056

- Requirements met by completing Forms 1094-C and 1095-C
- 1094-C is aggregate transmittal form
- 1095-C forms are the individual statements provided to each full-time employee



1094-C Information

- Identifying employer information
- Whether you offered coverage to 70% of full-time employees and dependents in 2015
- Total number of 1095-C forms issued to employees
- Full-time employee counts by month
- Full-time and part-time employee counts by month (use same day of each month)
- Whether transition relief is available



Transition Relief

- Qualifying Offer Method
- Qualifying Offer Method Transition relief
- Section 4980H Transition Relief
- 98% Offer Method



Qualifying Offer

- Instead of reporting information each month, employers may report employee's name, address, SSN and indicator code for each full-time employee who receives a "qualifying offer" of coverage for all 12 months



Qualifying Offer

- Employee-only option is affordable using the federal poverty line safe harbor and is of minimum value; and
- Coverage is also offered to employee's spouse and dependents
- If qualifying offer is made, specific codes will be entered into Form 1095-C



Qualifying Offer

- If use this method, may provide a 1095-C to employees OR a document with following information:
 - Employer name, address, EIN
 - Statement that, *for all 12 months*, the employee (plus spouse and dependents) received a qualifying offer and therefore not eligible for premium tax credit



2015 Alternative

- Qualifying offer transition relief
- For 2015 only, employer providing qualifying offers to 95% or more of full-time employees will have reduced reporting obligations for all employees (including those who do not receive a qualifying offer for all 12 months)



2015 Alternative

- For 2015 only, you may provide a document with the following information in lieu of Form 1095-C to any employee who *did not* receive a qualifying offer for all 12 months:
 - Employer name, address, EIN
 - Contact name and number
 - Statement that they may be eligible for premium tax credit



4980H Transition Relief

- Reduction of penalty by the first 80 FTE
- Offers of coverage to at least 70% of FTE
- Non-calendar year plan relief (allowing you to comply beginning July 1, 2015)



Alternative Reporting for Nearly Universal Offers – 98%

- If large employer certifies to the IRS that it offered, for all months of the calendar year, affordable coverage (using any safe harbor method) to at least 98% of full-time employees and their dependents, it is not required to report any further information to the IRS
- Employer need not provide full-time employee count under this method



1095-C Information

- One for each full-time employee
- Identifying information for employee and employer
- Information about health coverage offered, by month
- Employee's share of monthly premium for lowest-cost self-only coverage



1095-C Information (cont'd)

- Months employee enrolled in coverage
- Months employer met an affordability safe harbor with respect to the employee and whether other relief applies (for example, employee not employed during the month, employee was in initial measurement period, etc.)



When to Report

- Reporting is due annually after the end of the applicable calendar year
- If reporting for at least 250 employees, must report electronically by March 31
- Otherwise, by mail no later than February 28



Reporting to Employees

- Yearly statement to employees by January 31 of the year following the calendar year for which the reporting was filed (February 1, 2016)
- May be mailed with W-2



Penalty

- Failure to file correct returns and statements = \$100 per return or statement
 - Maximum \$1.5 million per calendar year
- Sliding scale for corrections within 30 days and by August 1, 2016
- Good faith standard in 2016 – no penalties for incorrect or incomplete information if employer shows good faith effort to comply

Questions?

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