

# **Affordable Care Act:**

## **Compliance Issues for West Virginia Boards of Education ASBO**

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# The Basics

- Beginning January 1, 2015, or the first day of the plan year in 2015, large employers must OFFER health insurance to all full-time employees and their dependents

# The Basics

- Full-time employee = 30 service hours per week or more
- Service hour = any hour for which employee is paid or entitled to be paid

# Counting Hours of Service

- To determine hours of VHE's:
  - Count actual hours worked/paid (required for hourly employees)
  - Assume 8 hours for each day worked/paid
  - Assume 40 hours for each week worked/paid

Equivalency methods may be used only if they do not “significantly understate” hours actually worked.

# Counting Hours of Service

- Different methods may be used for different job categories (for non-hourly employees)
  - Must be reasonably and consistently applied (e.g. homebound instructors)
- May change method used each calendar year

# Counting Hours of Service

- Hours worked by bona fide volunteers do not count
- Coaches
  - Offering services freely or nominally
  - Services offered without coercion or pressure
  - Services performed while coaching not the same as required to perform in his/her regular job

# Determining Full-Time Status

- Track hours worked/paid by all variable hour, part-time and seasonal employees over measurement period
- Calculate average and make offers of coverage during administrative period
- Allow coverage during stability period

# ACA Final Regulations

- February 10, 2014
- Employer Shared Responsibility Provisions



# ACA Final Regulations Changes

- Employer mandate effective first day of plan year in 2015 (July 1)
- Hours of service do not include hours worked by bona fide volunteers
- Substantially all means 70% for 2015

# ACA Final Regulations Changes

- Equivalency method may not be used for hourly employees
- Track hours of part-time employees
- Dependent definition (biological or adopted child)
- Seasonal employee = 6 months or less

# Eligibility Penalty

- If employer fails to offer coverage to *substantially all* full-time employees AND at least one employee goes to exchange to purchase coverage AND receives a premium tax credit
- \$2,000 per year per each full-time employee minus the first 30

# Offers to “Substantially All” Employees

- On February 10, the Obama administration announced that the 95% rule would become effective January 1, 2016
- In 2015, employers must offer coverage to at least 70% of full-time employees to avoid eligibility penalty

# Eligibility Penalty

- In 2015, penalty is based on all full-time employees, minus the first 80
- Beginning in 2016, minus the first 30

# Affordability Penalty

- If coverage is offered to substantially all full-time employees and dependents but is unaffordable for any employee AND that employee purchases coverage on the exchange AND receives a premium tax credit
- \$3,000 per year for each employee for whom coverage is unaffordable

# Affordability

- Generally, coverage is affordable if the employee's required contribution for the lowest-cost self-only minimum value coverage offered does not exceed 9.5% of the employee's household income

# Affordability Safe Harbors

- Regulations allow employers to use three safe harbor methods to determine whether coverage is affordable
- Safe harbors do not affect affordability for purposes of determining premium tax credit
- Employer treated as offering affordable coverage if it meets one safe harbor



# Affordability Safe Harbors

- Affordability may be determined by comparing the employee's contribution for the lowest cost self-only coverage that provides minimum value against either:

# W-2 Safe Harbor

- 9.5% of employee's W-2, Box 1 wages
- If meet the safe harbor, employer will not be subject to affordability penalty even if employee receives a premium tax credit

# Rate of Pay Safe Harbor

- 9.5% of employee's rate of pay
  - Monthly pay for salaried employees
  - Hourly rate of pay times 130 hours per month for hourly employees
  - Rate of pay is determined as of beginning of the coverage period (first day of plan year)
  - This safe harbor may be used only if employees' rates of pay are not reduced during plan year

# Federal Poverty Line Safe Harbor

- 9.5% of the federal poverty line for a single individual (\$11,670 for 2014)
- Maximum employee contribution based on this amount would be \$92.39/month

# Affordability Safe Harbor

- Employer may use different safe harbors for different job categories as long as the basis for differentiation is uniform and consistent

# Reporting Requirements

- Reporting required for 2015
- Section 6055 Return
  - Determines whether minimum essential coverage is provided
  - Insurers and employers sponsoring self-funded plans required to comply
  - “Individual Mandate” Reporting

# Reporting Requirements

- Section 6056 Return
  - Determines whether large employer (50 plus employees) owes penalty and whether employees are eligible for premium tax credit
  - Large employers required to comply
  - “Pay or Play” Reporting

# Section 6056 Reporting

- Focuses on full-time employees
- File return for each full-time employee and a single transmittal form for all returns filed



# Section 6056 Return

- Name, address, EIN of employer and calendar year for which info is reported
- Name and telephone number of employer's contact person
- Certification of whether employer offered full-time employees (and dependents) opportunity to enroll in coverage, by calendar month

# Section 6056 Return

- Number of full-time employees for each calendar month, by month
- For each full-time employee, the months during the calendar year for which coverage under the plan was available
- For each full-time employee, the employee's share of the lowest cost monthly premium for self-only coverage, by month

# Section 6056 Return

- Name, address, SSN of each full-time employee during calendar year and the calendar months, if any, during which employee was covered under the plan

# Section 6056 Info reported through indicator codes

- Whether the coverage offered to full-time employees and dependents meets minimum value and whether employees had opportunity to enroll spouses in plan
- Total number of employees, by calendar month
- Whether a waiting period affected date of coverage

# Section 6056 Info reported through indicator codes

- Whether employer had no employees during a calendar month
- Information regarding third party reporting
- Others not applicable

# Statements to Full-time Employees

- Employer must furnish a section 6056 statement to each full-time employee that includes name, address and EIN of the employer and the information required to be shown on the section 6056 return
- May furnish a copy of the return or a “substitute employee statement” (must include info on return and comply with revenue procedures)

# 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 (March 1, 2016)
- No alternate filing date for non-calendar year plans

# Statements 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



# Alternative Reporting Methods

- For some groups of employees, only some information required under the general method is necessary
- When alternative reporting is not available for certain employees, full reporting under the general method is required

# Reporting Based on Certification of Qualifying Offers

- Employer that satisfies specific requirements is permitted to certify that it offered certain coverage (a qualifying offer) to certain full-time employees and to report simplified section 6056 return information for those employees
- May also provide simplified employee statement

# Qualifying Offer

- Employee contribution for self-only coverage 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

# Qualifying Offer

- With respect to employees for whom qualifying offer is made for all 12 months of calendar year, employer treated as reporting section 6056 information if it provides employee's name, SSN and address, and indicates qualifying offer was made for all 12 months with indicator code

# Qualifying Offer

- Employee statement indicates qualifying offer was made for all 12 months for employee, spouse and dependents

# Qualifying Offer

- If employee did not receive a qualifying offer for all 12 months of calendar year, must use general method for months during which qualifying offer was not received

# 2015 Alternative

- 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)

# Alternative Reporting for Nearly Universal Offers

- If large employer certifies to the IRS that it offers coverage which is of minimum value and affordable (using any safe harbor) to at least 98% of full-time employees, it is not required to report any further information to the IRS
- Not required to identify or specify number of full-time employees



# Penalty

- Failure to file correct returns and statements = \$100 per return or statement
  - Maximum \$1.5 million per calendar year

# Questions?

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