

HEALTH CARE REFORM

Although IRS has delayed until 2015 the employer information reporting requirements and penalties for employers with over 50 employees who do not provide insurance, many other provisions of Health Care Reform remain on schedule to take effect in 2014. Here are the highlights for rules as they stand today, but keep in mind that these rules are still evolving and subject to change:

MARKETPLACES

Beginning January 1, 2014, small businesses, self-employed individuals and qualified individuals will have access to health insurance coverage through new health insurance marketplaces (also known as Affordable Insurance Exchanges). The U.S. Department of Health and Human Services (HHS) has explained on a new web page (<https://www.healthcare.gov/families/>) that insurance plans in the market place are offered by private companies, and they will cover a core set of benefits. Open enrollment for health insurance coverage through the marketplace is scheduled to begin October 1, 2013, for coverage starting January 1, 2014.

SMALL BUSINESS HEALTH OPTIONS PROGRAM (SHOP)

Small employers (generally employers with 50 or fewer employees) may keep their current coverage (or no-coverage, as the case may be) or, effective January 1, 2014, offer coverage through a SHOP exchange. The U.S. Department of HHS explains more about SHOP on the following web page, <https://www.healthcare.gov/small-businesses/>. Enrollment for coverage through a SHOP exchange is scheduled to begin October 1, 2013, for coverage starting January 1, 2014.

Individuals who are self-employed with no employees will not use a SHOP exchange, but rather the Marketplace for individuals described above.

NOTIFICATION TO EMPLOYEES

Employers are required to notify their employees of coverage options available through the marketplace. Employers are required to provide this notice to all current employees no later than October 1, 2013, and to each new employee at the time of hiring beginning October 1, 2013 within 14 days of their date of hire, regardless of part-time or full-time status.

Specifically, employers must notify employees of the following:

- 1) Of the existence of a health insurance marketplace (Marketplace).
- 2) That certain individuals may be eligible for premium assistance tax credits or cost-sharing-reduction subsidies if they purchase a plan through the Marketplace.
- 3) That if employees purchase a plan through the Marketplace, they may lose the employer contribution to any health benefits the employer offers.

The U.S. Department of Labor (DOL) has prepared sample notices for employers that offer health insurance to their employees (<http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>) and employers that do not offer health insurance(<http://www.dol.gov/ebsa/pdf/FLSAwithoutplans.pdf>). Employers may use

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one of these notices, as applicable, or a modified version, provided the notice meets certain content requirements as set forth by DOL.

SMALL EMPLOYER HEALTH INSURANCE CREDIT

If you are a small business employer with fewer than 25 employees, provide health insurance to those employees and pay over half the premium then you may already be receiving this credit. Beginning in 2014, there are significant changes to this credit. The credit will **only** be available to qualified small employers that obtain coverage for employees through a SHOP exchange.

This credit is set at 35 percent of health insurance premiums for 2013. For 2014 and 2015, the credit increases to 50 percent. However, the credit is only available after 2013 to employers that obtain coverage through a SHOP exchange.

INDIVIDUAL SHARED RESPONSIBILITY PAYMENT

Starting in 2014 nonexempt U.S. citizens and legal residents must pay a penalty (up to \$95 for 2014; \$325 for 2015; \$695 after 2015) if they do not maintain minimum essential health insurance coverage.

PREMIUM ASSISTANCE TAX CREDIT (SUBSIDY)

Beginning in 2014, eligible individuals who obtain coverage under a qualified health plan through a marketplace may qualify for this refundable premium assistance credit unless they are eligible for other minimum essential coverage, including employer-sponsor coverage that is affordable and provides minimum value. In other words if an employee is eligible to be covered by an employer plan that is affordable and provides minimum coverage then that employee is not eligible for this subsidy.

W-2 REPORTING OF EMPLOYER-PROVIDED COVERAGE

Originally all employers beginning in 2012 were required to report the cost of employer-provided health coverage on employees' Forms W-2. The IRS provided transition relief for small employers. For 2012 Forms W-2 – and W-2s issued for later years unless and until further guidance is issued – an employer is not subject to reporting for any calendar year if the employer was required to file fewer than 250 Forms W-2 for the preceding calendar year.

WORKPLACE WELLNESS PROGRAMS

Health Care Reform creates new incentives to promote workplace wellness programs. Health-contingent wellness programs generally require individuals to meet a specific standard related to their health to obtain a reward. Under final rules effective January 1, 2014, the maximum reward to employers using a health-contingent wellness program is scheduled to increase from 20 percent to 30 percent of the cost of health coverage. Additionally, the maximum reward for programs designed to prevent or reduce tobacco use is scheduled to reach 50 percent.