The Affordable Care Act (ACA) and Employer Responsibilities

September 26, 2014

MERS 68th Annual Meeting

CBIZ

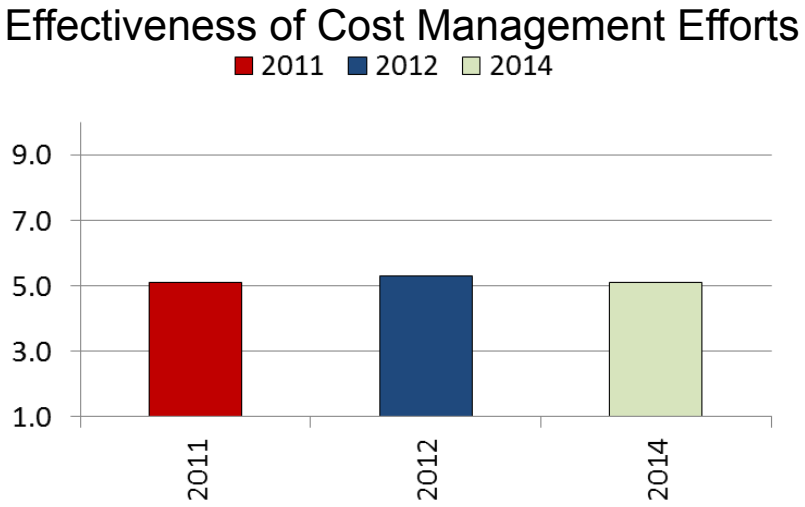
Cobalt Community Research:
2014 Health and OPEB Funding Strategies National Survey of Governments

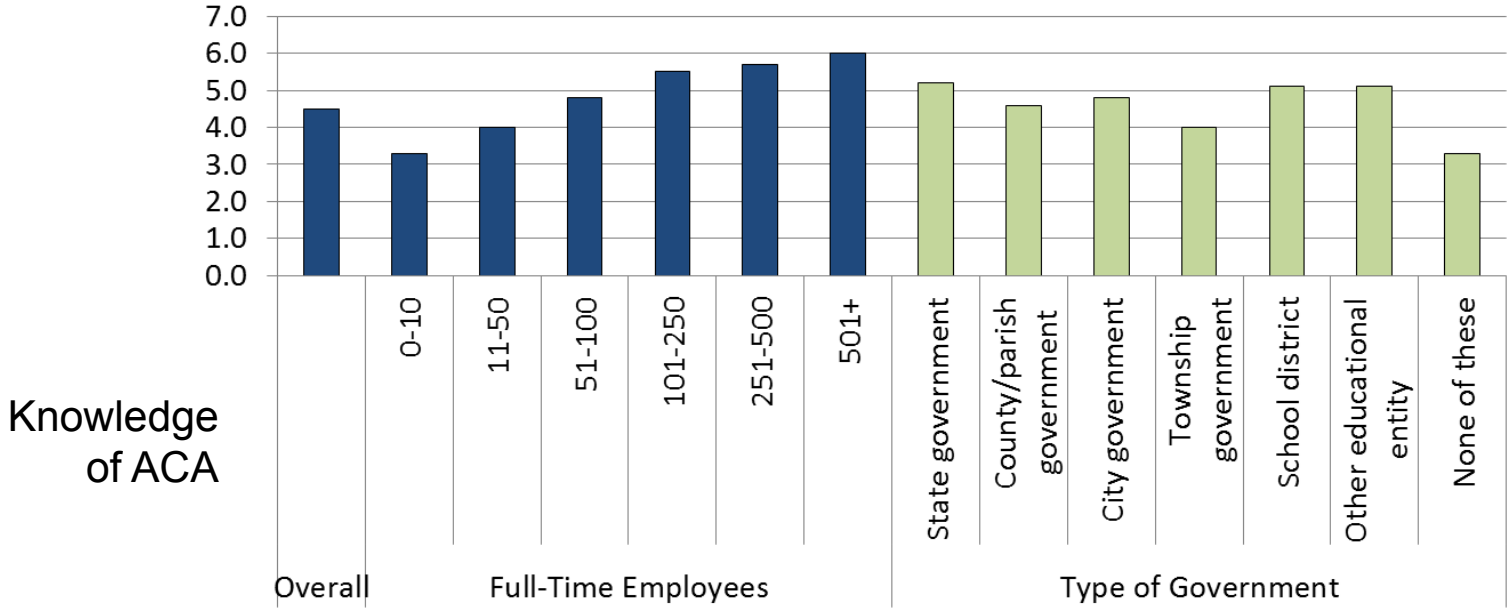
Sample of 1,536 units of government

Rising Health Costs: 56% expect significant increases for 2015.

Mediocre Cost Management: Effectiveness to control costs at a 5.1

Soft ACA Understanding: ACA knowledge limited. Average score is 4.5





Cobalt Community Research:
2014 Health and OPEB Funding Strategies National Survey of Governments

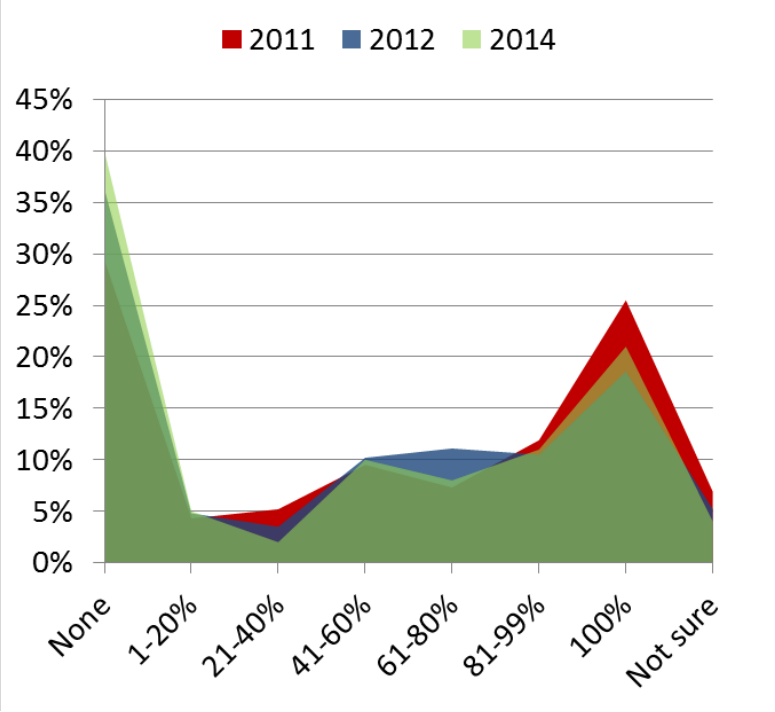
- Taking First Steps: Employers offering coverage have responded to the ACA with compliance reviews, testing to meet minimum value, and calculating ACA costs. Nearly half are developing strategies for part-time and seasonal employees because of the 30-hour per week requirement.

- Sharing Education and Costs: Very few employers are eliminating coverage or moving toward an exchange, and less than 10% are considering an exchange in the next two years. Most changes include increasing employee/retiree share of the premium, increasing deductibles, increasing copays, tightening drug formularies, increasing employee/ retiree education, and wellness.

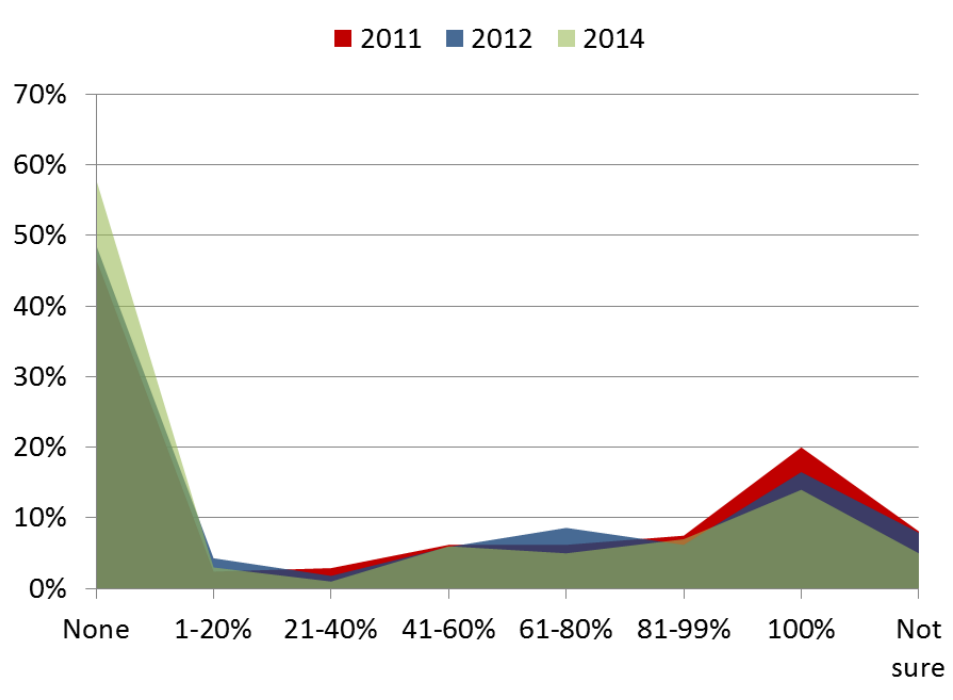
- Educate, Collaborate, Engage: When respondents shared innovations that other governments may want to learn about, the most frequent categories of innovation were wellness/disease management, pooling, and employee/ retiree engagement.

Employer Share of Pre-Medicare and Medicare Retiree Health Premium

Pre-Medicare



Medicare



Innovations That Work

- *"We replaced healthcare insurance with a retiree health savings plan and a defined contribution."*
- *"We switched 52 of our retires to a Medicare Advantage plan, and they received benefits equal to and better than what they had before. We saved $250,000."*
- *"An on-site health care clinic found an early stage cancer."*
- *"We have literally saved lives through our health fair by finding health concerns early."*

Today's Presenter

- **David S. Rubadue, FSA, MAAA, CLU**

  National Director Health Care Actuarial Services
  CBIZ Benefits and Insurance Services, Inc.

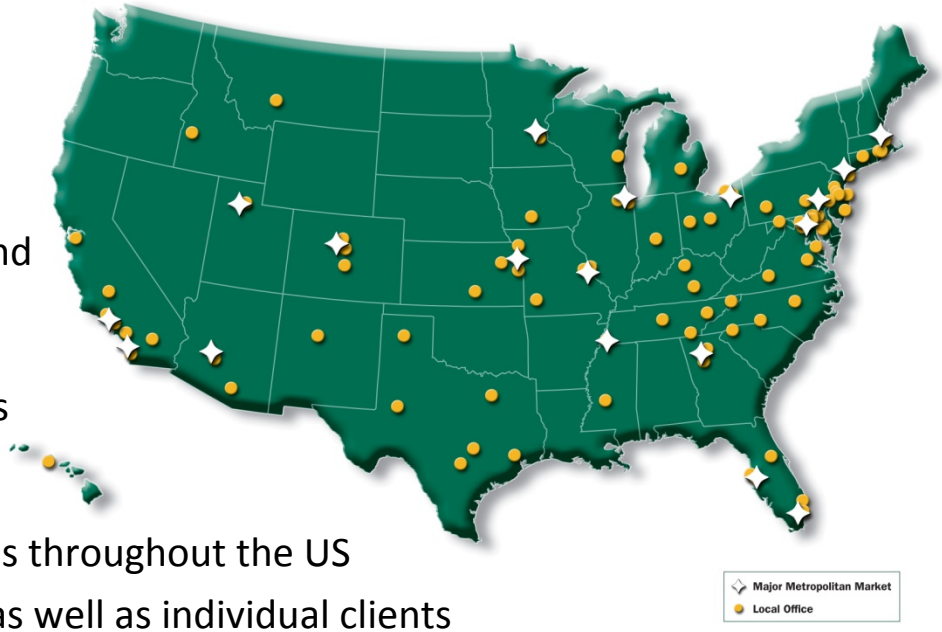
Today's Agenda

- About CBIZ
- The Marketplace (Let's Go Shopping)
- What if I do not have health insurance coverage?
- What are Employer's Doing to Prepare For the Shared Responsibility and Reporting Provisions that begin in 2015?
- Questions – Open Dialogue

Who is CBIZ?

- CBIZ (NYSE: CBZ) is a professional services company, providing a comprehensive range of business services, products and solutions that help our clients grow and succeed by better **managing their finances and** employees.

- We are one of the nation's leading:
  - Human Resources Specialists
  - Accounting Providers
  - Property & Casualty Brokerage and Risk Consulting Firms
  - Valuation firms
  - Retirement Plan service providers



- Nearly 100 offices and 4,000 associates throughout the US
  - Serves organizations of all sizes as well as individual clients
  - Provides national caliber expertise combined with a highly personalized, local service

Integrated services to help you simplify the complex and create better organizational outcomes.

CBIZ & Affordable Care Act -- WE HAVE BEEN VERY BUSY!

- We have assessed over 250 Companies – Answering such questions as:

  How does the Marketplace work?

  What is the financial impact to my firm under the ACA Provisions?

  What alternatives do we have to mitigate the financial impact?

  How do we stay in compliance?

The Marketplace (Public Exchange)

Places To Go To Access Health Insurance in 2014 (With Anticipated Growth/Decline)

Individual Market & COBRA (Heavy Decline)

Employer (Marginal/to High Decline)

Medicaid (Enhanced Growth)

Medicare (Heavy Growth)

Other (Tri-Care)

Public Exchange (Heavy Growth)

Places To Go To Access Health Insurance in 2014 (With Anticipated Growth/Decline)

Public Exchange (Heavy Growth)

Things to know before you go shopping @ The Public Exchange

- **Products Value (Richness of Benefits) are designed using ~ Olympic Medals:**
  - Platinum Plan (Actuarial Value of 90%)
  - Gold Plan (Actuarial Value of 80%)
  - Silver Plan (Actuarial Value of 70%)
  - Bronze Plan (Actuarial Value of 60%)
- **Actuarial Value**
  - Ex: Platinum Plan on average covers 90% of all essential benefit expenses, Gold 80%, etc.
- **Premium Rates vary by:** Plan, Area, Family Size and AGE (NOT GENDER and NOT HEALTH STATUS, e.g., pre-existing conditions!) Note: Only health factor is tobacco use (1.5:1 limit).
- **Premium Rates for the Old cannot be more than 3X's that of the Young**. If Young Rate is $100 Max Old Rate $300
- **Premium Subsidies:** If an individual's household income is **below** 400% **and above** 100% of the Federal Poverty Level (FPL) they **may** be eligible for premium subsidies.
- **Limited Number of Insurance Carriers and Narrow Networks**

Eligibility for Subsidy

- Must Fall Between 100% and 400% of the Federal Poverty Level (For Michigan, it is 138% to 400% (Note:133% equates to 138% via way calculated)
- If you are eligible for benefits from your employer, you may not be eligible for plan/premium subsidies through the public exchange:
  - If your employer offers you a COMPLIANT plan (Meets Minimum Essential Coverage) and the benefit plan passes the affordability test for SINGLE Coverage – you and your family may not be eligible for premium subsidies:
    - Affordability Test: Cost to Employee for Single Coverage < = 9.5% of Employee's Household Income (Modified Gross Income on 1040)
    - You do not need to participate in the plan – simply need to be eligible to participate in the plan

2014 Federal Poverty Level Chart (Excl. HI & AK)

Household size	100%	138%	150%	200%	300%	400%
1	$11,670	$16,105	$17,505	$23,340	$35,010	$46,680
2	$15,730	$21,707	$23,595	$31,460	$47,190	$62,920
3	$19,790	$27,310	$29,685	$39,580	$59,370	$79,160
4	$23,850	$32,913	$35,775	$47,700	$71,550	$95,400
5	$27,910	$38,516	$41,865	$55,820	$83,730	$111,640
6	$31,970	$44,119	$47,955	$63,940	$95,910	$127,880
7	$36,030	$49,721	$54,045	$72,060	$108,090	$144,120
8	$40,090	$55,324	$60,135	$80,180	$120,270	$160,360

Cost & Plan Subsidy Provisions For Illustration

Maximum Cost to Employee is based on Silver Plan:

- Up to 133% FPL: 2.0% of income
- 133-150% FPL: 3.0% - 4.0% of income
- 150-200% FPL: 4.0% - 6.3% of income
- 200-250% FPL: 6.3% - 8.05% of income
- 250-300% FPL: 8.05% - 9.5% of income
- 300-400% FPL: Capped to 9.5% of income

Out of Pocket Costs May be Reduced

- 94% AV for between 100%-150% FPL
- 87% AV for between 150%-200% FPL
- 73% AV for between 200%-250% FPL

Healthcare Marketplace vs. Employer

Example: Family of 4 (E, Sp, 2C) with an Income of $47,700. Age of Employee and Spouse is 35.

Exchange Plan	Annual Premium	Maximum Premium as % of HHI	Max Cost to Family	Subsidy	Plan Value
Family	$11,000	6.3%	$3,005	$7,995	73%
Employer Plan	**Annual Premium**	**Employer Costs**	**Employee Cost**		
Single Family	$6,000 $18,000	$5,000 $9,000	$1,000 $9,000	Affordable	80% 80%

General Rule: If the employers plan is not affordable, and the employee goes to the public exchange and received a premium subsidy, the employer will be a $3,000 penalty (not tax deductible).

What If I Do Not Have Coverage?

ACA: The Individual Mandate

Potential Penalties for Failure to Maintain Minimum Essential Coverage (MEC)

Year	Penalty
2014	Greater of: $95 per adult and $47.50 per child (up to $285 for a family); or 1.0% of family income
2015	Greater of: $325 per adult and $162.50 per child (up to $975 for a family); or 2.0% of family income
2016 and Beyond	Greater of: $695 per adult and $347.50 per child (up to $2,085 for a family); or 2.5% of family income

CBIZ

ACA: The Individual Mandate

What is MEC?

- **Employer-sponsored Group Health Plans**
  - Insured and self-funded
  - Grandfathered plans
  - COBRA coverage (if actually elected)
  - Retiree coverage
  - GHP sponsored by non-profit and for-profit entities and government entities

HIPAA-excepted coverage does not qualify as MEC

Examples: Limited-scope dental or vision, LTC, Limited benefit plans, Non-coordinated benefits, Supplemental benefits

CBIZ

ACA: The Individual Mandate

What is MEC?

- **Government-sponsored plans:** Medicare, Medicaid, CHIP, TRICARE, Veterans health programs
- **Individual health policies** including QHP via Exchange
- **Other similar types of comprehensive health coverage** deemed MEC by HHS

The Employer – Shared Responsibility Requirement

Employers Are Assessing the Accountable Care Act and their Options

- How ACA will impact *MY Company*? In particular, the financial impact of potential Shared Responsibility Penalties that begin 1/1/2015.
- What are my *Options*?
- What are other Companies in our industry doing? (Benchmarking)
- With each option or alternative there are *advantages* and *disadvantages* – What's right for MY Company in the context of HR & Finance?

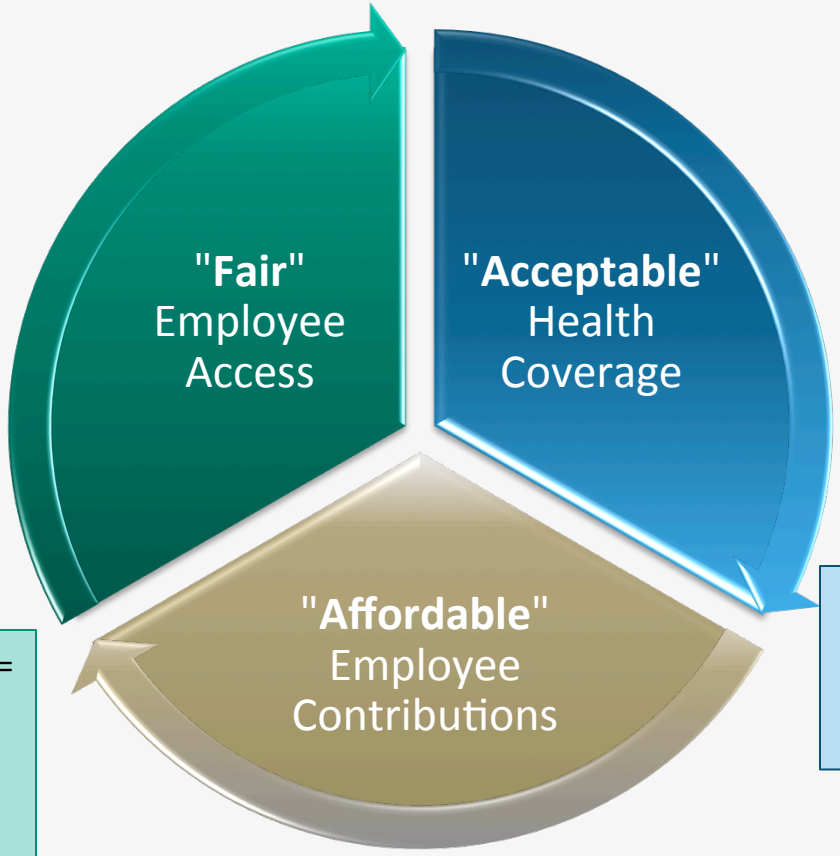
Which Employers Are Affected by the Shared Responsibility Penalties?

- "Large Employers" – Employers with at least 50 full-time employees or equivalents
- Full time employees include:
  - Employees who are employed on average at least 30 hours per week
  - A percentage of employees who are not full time employees (aggregate number for hours/month worked by part time employees divided by 120)
- Leased employees as defined in IRC § 414(n)(2) are not treated as full time employees

"Fair" Access - Employees working on a regular basis of 30 or more hours per week, are deemed "eligible" for medical coverage under health care reform.

Measurement and stability periods of up to 12 months can be used for "Variable Hour" employees. Additionally, Seasonal employees working less than 6 months per year are considered Variable Hour employees.

No Coverage Excise Tax Penalty = Total number of full time employees less the first 30[1] multiplied by $2,000 per year (calculated monthly)



"Acceptable" Coverage – Compliant Plan: one that meets the essential benefits and minimum out of pocket requirements.

Actuarial Plan Value: The richest compliant plan is evaluated at 100%, the leanest compliant plan is 60% . USE MINIMUM VALUE CALCULATOR published by HHS.

If your plan is not "compliant", it is like not offering a plan at all. See No Coverage Excise Tax Penalty.

If the leanest bona fide benefit plan is offered to the employee for less than 9.5% of the employee's house hold income (HHI), the employer's plan is deemed "Affordable".

Because HHI is not available to the Employer, as a "safe harbor", the employee's wages can be used to pass the test.

The affordability test is applicable to Single employee coverage (does not include dependent coverage).

Unacceptable or Unaffordable Excise Tax Penalty (if 1 or more employees receives a subsidy) = $3,000 per employee receiving an Exchange subsidy up to a maximum of $2,000 * all full time employees less the first 30[1]

[1] *80 lives may be subtracted for 2015.*

Real Example

	2014 Current Program (Baseline)	2015 Impact of HCR If No Changes Are	Terminate Plan (2015)	Terminate Plan (2016)
Eligible Group(s)				
Total	220	220	220	220
Enrolled	160	160	0	0
Monthly Premium	$165,974	$165,974	$0	$0
EE Monthly Cost	$66,390	$66,390	$0	$0
ER Monthly Cost	$99,584	$99,584	$0	$0
Not Eligible 30+ Hr		Made Eligible on 1/1/2015		
Total	75	75	75	75
Enrolled	0	40	0	0
Monthly Premium	$0	$41,494	$0	$0
Ee Monthly Cost	$0	$16,597	$0	$0
Er Monthly Cost	$0	$24,896	$0	$0
Total Waivers	55	90	295	295
Trigger Penalty	0	30	215	265
Medicaid	0	40	0	0
Others	0	20	0	0
Penalty	$3,000	$3,000	$2,000	$2,000
Tax Rate	0%	0%	0%	0%
Add'l Monthly Cost	$0	$7,500	$35,833	$44,167
Grand Total				
Total Employees	220	295	295	295
Enrolled	160	200	0	0
Total Monthly Cost	$165,974	$207,468	$35,833	$44,167
EE Monthly Cost	$66,390	$82,987	$0	$0
ER Monthly Cost	$99,584	$131,981	$35,833	$44,167
ER Monthly Cost Increase (Decrease)	Baseline	$32,396	($63,751)	($55,418)

Shared Responsibility Requirement

2015: Calculation of Penalties
No Coverage Excise Tax Penalty

If ER fails to offer MEC to 70% of its FTEs (EEs + dependents beginning 2015) for any calendar month and employs at least one credit EE*

Excise tax penalty is calculated monthly as:

(Number of FTEs - 80) X $166.67 (~$2,000/yr).

** A credit employee is one who works minimum 30 hours/week and eligible for premium tax credit or cost sharing assistance for buying insurance via exchange.*

CBIZ

Shared Responsibility Requirement

2016: Calculation of Penalties
No Coverage Excise Tax Penalty

If ER fails to offer MEC to 95% of its FTEs (EEs + dependents beginning 2015) for any calendar month and employs at least one credit EE*

Excise tax penalty is calculated monthly as:

(Number of FTEs - 30) X $166.67 (~$2,000/yr).

** A credit employee is one who works minimum 30 hours/week and eligible for premium tax credit or cost sharing assistance for buying insurance via exchange.*

CBIZ

Shared Responsibility Requirement

2015: Inadequate or Unaffordable Excise Tax Penalty

If ER offers health coverage to minimum 70% of its FTEs and employs at least one credit EE*, and coverage fails to meet minimum value standard or is unaffordable, then the monthly excise tax penalty is the **lesser of**:

- Number of credit employees* multiplied by $250 (~$3,000/yr) OR
- (Number of FTEs - 80) X $166.67 (~$2,000/yr)

** A credit employee is one who works minimum 30 hours/week and eligible for premium tax credit or cost sharing assistance for buying insurance via exchange.*

CBIZ

Shared Responsibility Requirement

2016: Inadequate or Unaffordable Excise Tax Penalty

If ER offers health coverage to minimum 95% of its FTEs and employs at least one credit EE*, and coverage fails to meet minimum value standard or is unaffordable, then the monthly **excise tax penalty is the lesser of**:

- Number of credit employees* multiplied by $250 (~$3,000/yr) OR
- (Number of FTEs - 30) X $166.67 (~$2,000/yr)

** A credit employee is one who works minimum 30 hours/week and eligible for premium tax credit or cost sharing assistance for buying insurance via exchange.*

CBIZ

Shared Responsibility Requirement

What is Affordable Coverage?

Coverage under ER-sponsored plan (based on self-only coverage cost) deemed affordable if EE's required contribution <9.5% of EE's household income (modified AGI) for taxable year.

Three safe harbors ERs can use to determine affordability (based on self-only coverage cost):

1. **Form W-2 wages** (Box 1)
2. **Rate of pay method**:
   - *Hourly EEs*: Minimum value can't >9.5% of amount equal to 130 hours, multiplied by EE's hourly rate of pay on 1st day of the coverage period
   - *Salaried EEs*: Monthly salary used instead of the 130 hour standard
3. **Federal poverty line (FPL) standard**: Minimum value can't >9.5% of FPL rate for applicable calendar year, divided by 12.

CBIZ

Shared Responsibility Requirement

The $2000 and $3000 Penalties will increase by Health Care Trends (Defined Process)

What are Employer's Doing?

Employer A (High ACA Risk)

- Large number of 30 + variable hour employees w/ a "low" pay base ($15K to $20K per year) – compliant medical not offered to this group
- Self Insured
- Actions Taken:
  - Incorporated "Utah" Benchmark provisions
  - Introduced ~ 60% Plan that was Affordable @ 138% of FPL. Offered along side their 75% and 85% plan
  - Restructured contributions (contributed more to Single at expense of Family)
  - Offered a Minimum MEC plan (Self Insured Fully Funded Preventive Only Plan) with Single Coverage Paid For By Employer
  - Complimented Minimum MEC plan with an Employer Sponsored, 100% Employer Paid (Employee Only) Hospital Indemnity Plan (Considered Critical Illness & Accident)

Employer B (High ACA Risk)

- Large number of 30 plus variable hour employees with a “low” pay base ($15K to $20K per year). Compliant medical plan not offered to this group
- Fully Insured
- Actions Taken:
  - Introduced ~ 60% Plan that was Affordable @ 138+% of FPL
  - Considered Not Offering Coverage to “Spouses”
  - Restructured contributions
  - When a Variable Hour employee leaves company – replaced with a 25 hour employee
  - Management Benefits Did not Change (Rich)
  - Considering Private Exchange (Perfect Candidate)
  - Note: Plans offered are discriminatory – discriminatory testing is postponed for fully insured plans

Employer C (Moderately High ACA Risk)

- Benefits offered to employees working 32 hours per week
- For hourly class, 6 month waiting period
- Collective bargaining unit, Medical is a non-compliant plan
- Three plans – leanest plan valued at (80%)
- Self Insured
- Actions Taken:
  - Elected Utah as Benchmark plan
  - Full time hours changed to 30
  - Changed waiting period to 1st of month following 60 days for Hourly
  - Scheduled to meet with Union to make a plan change (enhancement)
  - Restructured contributions
  - Introduced a 70% plan

Employer D (Moderate ACA Risk)

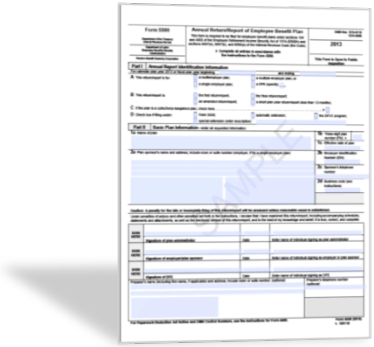
- Benefits offered to employees working 40 + hours per week
- High employee cost to purchase coverage (Affordability Trigger at $30,000 ~ $237/month for single coverage)
- Lean Plan was valued at 80%
- High number of waivers
- Premiums are high
- Action Taken:
  - Introduced ~ 60% Plan that was Affordable @ 200% of FPL
  - Incorporated a robust wellness program & a tobacco use penalty (50%)
  - Considering going self insured

Employer E (Low ACA Risk)

- Benefits offered to employees working 25 hours per week
- Low employee cost to purchase coverage (Affordable)
- Current Lean Plan valued at 85%
- Robust wellness program with incentives
- Action Taken
  - Considering changing eligibility to 30 hours per week
  - Considering incorporating a tobacco surcharge (affordable only if non-tobacco user)
  - Can save money if terminate plan – however not a consideration
  - Considering offering a leaner plan

For Most All Companies – Common Concern

- Employee Classification and Measurement of Hours
- Benefit Plan Compliance
- Reporting (6055 & 6056)



Shared Responsibility Requirement

What Should An Employer Do?

1. Determine ER size.
2. Determine which EEs are full-time (30+ hours per week or 130 hours per month).
3. Determine which EEs are part-time (<30 hours per week or 130 per month).
4. Determine which EEs are variable or seasonal.

Shared Responsibility Requirement

What Should An Employer Do?

5. Decide whether to take advantage of a look-back (measurement) and stability period.
   - If using a measurement/stability period:
     - Define it for new EEs (initial) and define it for on-going EEs (standard).
     - Add to new hire practice, a determination of whether the individual is full-time, part-time, variable or seasonal. If variable or seasonal, track hours worked during measurement period.
   - If you're not using a measurement/stability period, analyze status each month.

Shared Responsibility Requirement

What Should An Employer Do?

6. Define methodology for determining affordability: Form W-2 method, the rate of pay method or the Federal poverty line (FPL) standard.
7. Make certain EEs are given an effective opportunity to enroll in the plan (at least once per plan year).
8. Know your risk. How many full-time EEs are offered MEC? Is it affordable? To avoid a penalty risk, offer adequate coverage at an affordable rate. It is the offer, not the take-up rate, that matters.

QUESTIONS?

Thank You

our business
is growing yours