The Muck and Mire of Shifting Sand

Health Care Decisions for the Small Business Owner

University of Nebraska-Lincoln Extension Educators Marilyn Schlake & Carroll Welte

As of today…

- Regulations are still being written
- Not everything is ready or defined
- Political debate continues

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Official Disclaimer

- The information is not intended as tax or legal advice, and it may not be relied on for the purpose of avoiding any federal or state tax penalties.
- Educational materials designed to serve as a starting point for further discussions with an attorney, accountant, human resource (HR) consultant, or other advisor who is well-versed in the new health care regulations.
- Not an endorsement for or against the ACA

Overview of ACA timeline

- Signed into law March 23, 2010
- Provisions established 2011
  - Children covered on parent’s plan to age 26
  - Preventative care coverage in full
  - Pre-existing conditions
- Supreme Court Ruling 2012
- Value of health benefits reported on W-2’s
- Transition in 2013
  - Minimum Essential Benefits
  - Employee Notification of Coverage (10/1/2013)

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Full Implementation

Know how. Know now.

How will the ACA affect your business?

- Large Employers
  - 50 – 99 (2016)
  - 100 + (2015)
- Small Employers
  - Less than 50
  - Less than 25
- Non-employer
NON-EMPLOYER BUSINESSES

- Treated as an individual/family
- Shared responsibility
  - Purchase insurance coverage
  - Qualify for a statutory exemption
- Incur a tax penalty

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**Qualified Insurance Plans**

- Employer-sponsored coverage
- Qualified Individual health plan
- Medicare Part A coverage and Medicare Advantage plans
- Most Medicaid coverage
- Children's Health Insurance Program (CHIP) coverage
- Certain types of veterans health coverage administered by the Veterans Administration
- Most types of TRICARE coverage
- Coverage under the Nonappropriated Fund Health Benefit Program
- Refugee Medical Assistance supported by the Administration for Children and Families
- Self-funded health coverage offered to students by universities for plan or policy years that begin on or before Dec. 31, 2014
- State high risk pools for plan or policy years that begin on or before Dec. 31, 2014
- Other coverage recognized by the Secretary of HHS as minimum essential coverage

**Statutory Exemptions**

- Religious conscience
- Health care sharing ministry
- Indian tribes
- Income below the minimum filing requirement
- Short coverage gap (< 3 months/yr)
- Hardship *(revised 12/19/13)*
- Affordability *(premiums > 8% of household income)*
- Incarceration
- Not lawfully present
Individual/family tax penalties

- 2014 penalties
  - $95 per adult/$47.50 per child, up to $285 for family or 1% of family income, whichever greater

- 2015 penalties
  - $325 per adult/$162.50 per child, up to $975 for family or 2% of family income, whichever greater

- 2015 penalties
  - $695 per adult/$347.50 per child, up to $2,085 for family or 2.5% of family income, whichever greater

IRS is prohibited from filing liens or charging interest for penalties. No fines or criminal charges for nonpayment.

Source: Nebraska Department of Insurance
Non-Employer Strategies

- Continue with Grandfathered plan (many cancelled)
- December 19 (NDOI issue – Hardship Case)
- New plan
  - Marketplace coverage
    - Enrollment ends 3/31/14
    - Must have status change to later enroll
  - Private coverage
  - Member-owned Cooperative

Metal Levels

- **Bronze 60%**
  - Lower Premiums
  - Higher OOP costs

- **Silver 70%**

- **Gold 80%**

- **Platinum 90%**
  - Higher Premiums
  - Lower OOP costs
Advance Premium Tax Credit

Table 1. Premium Credits by Income Under Health Reform:

<table>
<thead>
<tr>
<th>Income Percentage of Federal Poverty Level</th>
<th>Expected Premium Contributions (2013)</th>
<th>Remaining After Premium Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family of four</td>
<td></td>
<td></td>
</tr>
<tr>
<td>100-133%</td>
<td>$23,000 - $31,022</td>
<td>0%</td>
</tr>
<tr>
<td>133-150%</td>
<td>$31,522 - $35,525</td>
<td>0 - 4%</td>
</tr>
<tr>
<td>150-200%</td>
<td>$38,308 - $47,200</td>
<td>4 - 6.8%</td>
</tr>
<tr>
<td>200-250%</td>
<td>$47,100 - $60,876</td>
<td>6.8 - 8%</td>
</tr>
<tr>
<td>250-350%</td>
<td>$60,500 - $97,700</td>
<td>8 - 14.4%</td>
</tr>
<tr>
<td>300-350%</td>
<td>$70,000 - $92,405</td>
<td>14.4 - 19.4%</td>
</tr>
<tr>
<td>350-400%</td>
<td>$85,242 - $94,200</td>
<td>19.4 - 24.9%</td>
</tr>
<tr>
<td>Individual</td>
<td></td>
<td></td>
</tr>
<tr>
<td>100-133%</td>
<td>$11,140 - $13,783</td>
<td>0%</td>
</tr>
<tr>
<td>133-150%</td>
<td>$13,522 - $15,525</td>
<td>0 - 4%</td>
</tr>
<tr>
<td>150-200%</td>
<td>$17,200 - $22,200</td>
<td>4 - 6.8%</td>
</tr>
<tr>
<td>200-250%</td>
<td>$20,876 - $26,876</td>
<td>6.8 - 8%</td>
</tr>
<tr>
<td>250-300%</td>
<td>$25,200 - $30,200</td>
<td>8 - 14.4%</td>
</tr>
<tr>
<td>300-350%</td>
<td>$30,470 - $36,470</td>
<td>14.4 - 19.4%</td>
</tr>
<tr>
<td>350-400%</td>
<td>$40,012 - $45,060</td>
<td>19.4 - 24.9%</td>
</tr>
</tbody>
</table>

Maximum Out-of-Pocket

- 100-200% percent of Federal Poverty Level (FPL),
  - out-of-pocket limit - $2,250 for an individual.
  - out-of-pocket limit - $4,500 for a family
- 200-250% percent of FPL,
  - out-of-pocket limit - $5,200 for an individual.
  - out-of-pocket limit $10,400 for a family.
Out-of-Pocket Health Insurance Subsidy

- Income between 100-250% of FPL.
- Purchase insurance through state/federal exchange.
- Purchased a silver-tier health plan.
- If you’re married, tax filing status - married filing jointly.
- Must reside in the United States legally.
- Cannot be incarcerated.

Change in Circumstances

<table>
<thead>
<tr>
<th>Income as percentage of poverty line</th>
<th>Annual income for an individual (2013 $)</th>
<th>Single taxpayers</th>
<th>Annual income for a family of four (2013 $)</th>
<th>Married taxpayers filing jointly</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 200%</td>
<td>Under $22,980</td>
<td>$300</td>
<td>Under $47,100</td>
<td>$600</td>
</tr>
<tr>
<td>At least 200% but less than 300%</td>
<td>$22,980 - $34,470</td>
<td>$750</td>
<td>$47,100 - $70,550</td>
<td>$1,500</td>
</tr>
<tr>
<td>At least 300% but less than 400%</td>
<td>$34,470 - $45,960</td>
<td>$1,250</td>
<td>$70,650 - $94,200</td>
<td>$2,500</td>
</tr>
<tr>
<td>400% and above</td>
<td>$45,960 and higher</td>
<td>Full amount</td>
<td>$94,200 and higher</td>
<td>Full amount</td>
</tr>
</tbody>
</table>

Source: Center on Budget and Policy Priorities
EMPLOYER BUSINESSES

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Employer Size Determination

- Ownership exemptions
- Seasonal < 120 days FT
- Foreign-based
- Contractors
- Non-documented workers

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**Employer Size Determination**

- Full-time > 30 hrs/wk; 130 hrs/month
- Part-time < 30 hrs/wk; 130 hrs/month
- Seasonal > 120 days, full-time
- H2-A workers > 120 days, full-time
- “Common” Company Employees

**Large Employer, or not…**

1. **Aggregate PT totals:**
   - [3.5 PT emp @ 40 hrs/month] = 1400 hrs
   - [20 PT emp @ 60 hrs/month] = 1200 hrs
   - Total = 2600 hrs
   - 2600 hrs / 120 = 21.67 FTE for May - Aug.

2. **Total monthly FT & PT**

<table>
<thead>
<tr>
<th>Month</th>
<th>Total FTE</th>
<th>Month</th>
<th>Total FTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>30</td>
<td>July</td>
<td>31</td>
</tr>
<tr>
<td>February</td>
<td>30</td>
<td>August</td>
<td>31</td>
</tr>
<tr>
<td>March</td>
<td>30</td>
<td>September</td>
<td>30</td>
</tr>
<tr>
<td>April</td>
<td>30</td>
<td>October</td>
<td>30</td>
</tr>
<tr>
<td>May</td>
<td>31</td>
<td>November</td>
<td>30</td>
</tr>
<tr>
<td>June</td>
<td>31</td>
<td>December</td>
<td>30</td>
</tr>
<tr>
<td><strong>Total for year</strong></td>
<td><strong>444 FTE</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. **Divide Year FTE by 12 months for average:**
   - 444 FTE / 12 = 37 (FT and FTE) – Not a Large Employer

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Small Employers < 50 FTE

- No Employer Responsibility/No Penalties
- Premium Tax Credit
  - Requirements for 2014
    - Less than 25 FTE
    - Average annual salary less than $50,000
    - Employer pays at least 50% of premium
    - Coverage purchased through SHOP
- Credit Amounts
  - For profit – up to 50% of premiums paid
  - Non profit – up to 35% of premiums paid

Health Care Tax Credit

\[ 15/\text{hr} \times 2080 \text{ hr/yr} = 31,200/\text{emp} \]

Total Wages =

\[ 10 \times 31,200 = 312,000/\text{yr} \]

Total premiums = \[ 4,000 \times 10 = 40,000 \]

Estimated Annual Tax Credit = \$15,200, 38% \]

If $10/hr = $208,000 wages; TC = $20,000; 50%  
If $25/hr = $520,000 wages; TC = $0
Health Care Tax Credit

- Can carry back or forward to other tax years.
- Credit can be claimed retroactive to 2010, rate is 35%
- Remainder premium payments – business expense
- To claim, Form 8941
- Credit included under General Business Credit on tax return


Tax Credit – Additional Caveats

- Aggregation Rule Applies
- Credit applies to employee-only premium payments equivalents
- Does not apply toward defined contribution payments
- Does not apply toward self-insured plans
- Reduced by state small group market limit – Nebraska $5,325 single / 12,511 family (2012)
Health Care Tax Credit

- Health Law Guide for Business
- Small Business Majority

Taxes & Fees

- Individual
  - Net Investment Income
    - A 3.8% tax on net investment income with MAGI over $200,000 for single filers and $250,000 for married joint filers.

- Group
  - Transitional Reinsurance Program Fees
    - $63 year per each individual covered (2014)
    - $44 per enrollee (2015)
  - Patient-Centered Outcomes Research Institute (PCORI) fees
    - $2 per plan participant
Business Considerations

- Healthcare costs – premiums & contributions
- ACA compliance
  - Minimize risk of penalties if large employer
- Workforce
  - Quality
  - Retention
  - Salary and wages
  - Hours
- Short and long-term goals
  - Sustain
  - Growth and/or expansion

Business Strategy

- Adjust employer contribution
- Consider a less expensive plan(s)

- Bare bones or the skinny plan
- Increase employee contribution
  - Morale?
  - Loyalty?

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Small < 25 FTE Strategies

- No coverage
- Coverage with current or “grandfathered” plan
- SHOP coverage
- Co-operative Memberships
- Defined contributions

Small < 50 FTE Strategies

- No coverage
- Coverage with current or “grandfathered” plan
- SHOP coverage
- Co-operative Memberships
- Defined contributions
- Private exchanges
- Self-funded plans
- Staff changes

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Large Employer Penalty?

Are you a large employer?

Yes

No

Penalty

Do you provide health insurance?

Yes

No

Are you are large employer?

Do you have more than 30 FT employees?

Yes

No

Pen

Pay monthly penalty, lesser of

(Number of FT-30) x $2,000 \div 12

OR

(Number of FT receiving exchange coverage credits) x $3,000 \div 12

Adapted from Congressional Research Service, 7-5700

Large Employer Penalties

- Penalties assessed if healthcare insurance
  - Not offered to at least 95% of the full-time employees and their dependents (70% in 2015)
  - Not affordable (within 9.5% of each employee’s salary/wages)
  - Not adequate (60% of actuarial value)
  - Employee purchases insurance through exchange AND receives a tax premium credit

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Scenario 1

Employer with 100 employees offers insurance coverage that does not meet affordability or adequate requirements. Fifteen employees purchase coverage through exchange and receive health care tax credits. The employer penalty would be the lessor of:

$2,000 \times (100-30) / 12 = \$11,667/\text{mo.}$

$\$140,000/\text{yr}$

OR

$3,000 \times (15 \text{ employees}) / 12 = \$3,750/\text{mo.} \text{ or } \$45,000/\text{yr}$

Scenario 2

Employer with 100 employees does offers insurance coverage or offers coverage to less than 95% of full-time employees and their dependents. The employer penalty would be:

$2,000 \times (100-30) / 12 = \$11,667/\text{mo.}$

$\$140,000/\text{yr}$
Large Employer Strategies

- Current or grandfathered plan
- Reduce employer contributions
- Switch to cheaper plan
- Offer no coverage, incur penalties
- Offer no coverage, incur penalties, increase salaries, add benefits
- Member-owned CO-Op
- Defined contributions
- Private exchange

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Large Employer Strategies

- Defined contributions
- Private exchange
- Self-funded plan
- Staff changes
- SHOP (2016-100 employee firms; 2017 – all firms)

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Where to start: eship.unl.edu/healthcare

Questions? Email: ACAbizNE@unl.edu