Healthcare Reform Center

Healthcare Reform Compliance - Changes Affecting Employers

Mandated Private Insurance Policy Reforms

The Patient Protection and Affordable Care Act (the "Act") mandates health insurance policy provisions that will be required for all health insurance policies issued in the U.S., including

(1) a prohibition on health insurance policies including lifetime limits or aggregate annual limits;

(2) a prohibition on the non-renewal of coverage (rescission) except for fraud or breach of the policy;

(3) extension of coverage to adult dependents up to the age of 26 under the parents' health insurance policy;

(4) a national standard policy language to be established by the Secretary of Health and Human Services (the "Secretary"); and

(5) a prohibition on offering different types of coverage based on the employees' salaries which favor high salaried employees.

Grants will be available to states to establish offices of health insurance consumer assistance.

- The states will be required to track and publish all complaints and problems with health insurers and educate consumers on their rights and obligations under group and individual health insurance policies.

- In addition, the Act provides for the Secretary and the states to monitor and to report excessive premium increases.

- Health insurers must give rebates to their insureds if their administrative costs exceed 20% of premium for group health insurance policies and 25% for individual policies.

Immediate Insurance Reforms – High Risk Pools/Pre-Existing Conditions

The Act includes certain immediate reforms that are to be implemented within six months of passage.

- First, the federal government will establish a high risk pool that any individual who:
    - has not been covered for 6 months prior to applying for coverage through the high risk pool;
    - has a pre-existing condition defined by the Secretary;
    - and is a lawful citizen of the U.S. is eligible to access. States or non-profit entities may apply for federal funding to become a qualified high risk pool.
- Second, the Act provides for a federal reinsurance program to apply to those self-funded employer programs that offer health insurance coverage for employees that take early retirement.
- Third, the Act provides for administrative simplification for the electronic exchange of information for health information transactions and financial and administrative transactions.

Wellness, Any Willing Provider and Other Requirements

- The Act implements the prohibition on pre-existing conditions and non-discrimination on premium price (underwriting) based on health status.
- The Act also prescribes certain limitations on surcharging individual and group premiums for the small group market.
    - the policies may only consider rating individuals by individual or family,
    - the community in which the insured or insured's are located,
    - the age of each insured and
    - whether they use tobacco.

- The Act includes an "any willing provider" provision, requiring insurers to contract with any provider willing to accept the rates and other conditions offered by the health plan.

- Employers may reduce premiums not more than 30% for employees that participate in smoking cessation programs, join and participate in a fitness center, undertake periodic health education seminars and programs that encourage prevention. There is funding for states to provide demonstration wellness programs.

Creation of New Insurance Markets for Individuals and Small Employers

The Act provides for the creation of American Insurance Exchanges which are state marketplaces for the sale of health insurance policies for individuals and the group market for small employers.

- Each Exchange will have to offer a set of standard health insurance policies which assume a different percentage of risk and are sold at four different price points:

    1. a bronze plan (60% of the risk),
    2. a silver plan (70% of the risk),
    3. a gold plan (80% of the risk),
    4. and a platinum plan (90% of the risk).

- Each policy covers a minimum mandated set of essential benefits.

- Each Exchange must have policies that pay providers for improved outcomes and according to pay for performance formulas.

- In addition, each Exchange must have a "navigator" that provides mandated consumer information including an online portal.

Individual/Family Premium Subsidies and Employer Requirements

- The Act provides for reduced out-of-pocket expenses and premium credits for individuals up to 400% of the federal poverty level.

- The premium subsidies will limit the premium costs to between 2% for families and individuals at 133% of the poverty level and 9.5% at 400% of the poverty level.

    - Unless an exception is met, individuals who remain uninsured for a period of more than three months will have to pay a yearly penalty of the greater of 2.5% of their household income or $695 per person with a max of $2,085 per family.

    - These penalties are phased in from 2014 to 2016.

- Employers with up to 25 full-time equivalent employees with average annual wages of $40,000 dollars may obtain premium credits if they cover 50% of the premium.

    - These premium credits are 30% of the premium or 35% of the premium for employers with less than 10 full time equivalent employees and average annual wages of $25,000.

    - If employers do not offer coverage and have more than 50 employees, there is a penalty assessed to each employer equal to $2,000 per full time employee in excess of 30 employees.

    - If the employer offers coverage and at least one employee receives a premium credit through an Exchange, the employer will be penalized $3,000 for each employee that receives a premium subsidy and $2,000 for each full-time employee.

- Employers must provide a voucher to employees with incomes below 400% of the poverty level if their share of the premium cost is between 8-9.8% of their income to enable them to enroll in an Exchange plan.

    - Employers that offer a free choice voucher will not be subject to the penalty.

- Finally, large employers with over 100 employees that offer coverage are required to automatically enroll any employee that does not sign up but does not decline coverage in the lowest cost plan the employer offers.

Employer Penalties

Employers that fail to offer coverage and that have at least one employee file for insurance under the Exchanges and who qualifies for an out-of-pocket subsidy or a premium credit shall be penalized based on a formula up to $750 per full time employee.

- An employee is considered full time if they work 30 hours per week.
- The penalty is assessed for each month that employees remain uninsured.
- Similar penalties are applied to employers with extended waiting periods on their insurance.