BenefitsBulletin

THIRD QUARTER
2014

IN THIS ISSUE

ACA Survey Reveals Evolving Employer Concerns

Many of the key components of the Affordable Care Act (ACA) are now in effect, and a recent ACA survey highlights several trends regarding how employers are responding to the law.

The majority of employers are choosing to “play” when faced with offering coverage or paying a penalty—86 percent of respondents either definitely will or are likely to continue offering coverage to employees. This number increased nine percentage points over the last two years, while the percentage of employers that are unsure or chose a discontinue option dropped by 10 percent.

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Agencies Release New COBRA Guidance

The Departments of Labor (DOL) and Health and Human Services (HHS) recently issued clarifying guidance regarding how the Consolidated Omnibus Budget Reconciliation Act (COBRA) is affected by the ACA’s health insurance Exchanges. COBRA requires covered employers to provide former employees and dependents who lose group health benefits with an opportunity to continue their group coverage. To clarify how the ACA’s Exchanges affect COBRA, the DOL and HHS issued updated model notices and FAQs, and announced an additional Exchange special enrollment period (SEP).

Updated Model Notices
On May 2, 2014, the DOL provided an updated **model general notice** and **model election notice** for COBRA. The updated model COBRA notices reflect that the ACA’s Exchanges are now open and describe special enrollment rights for Exchange coverage. Employers are not required to use the DOL’s model COBRA notices. However, use of the model notices (appropriately completed) will be considered by the DOL to be good faith compliance with COBRA’s notice content requirements. Also, providing information about

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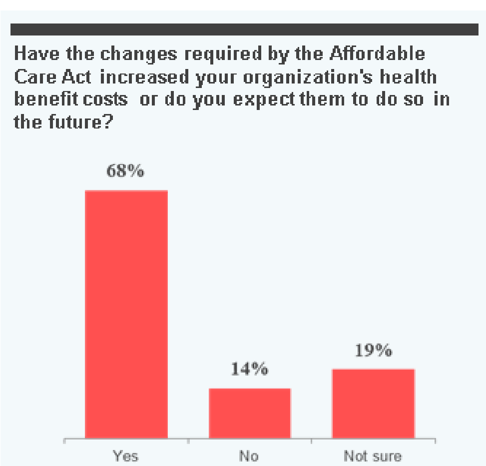
Affordable Care Act Survey (cont.)

Overall, employers report that health care costs are increasing. Nearly 7 in 10 respondents said that ACA changes have increased their organization's health benefits costs or that they are expecting future increases. More than 6 in 10 respondents say they are passing costs along to their employees, and 4 in 10 say they are reducing health benefits and programs. One-third of respondents are absorbing some of the increased costs themselves.

Despite rising costs, employers' confidence in their ability to comply with ACA rules rose dramatically in the last year. Two-thirds of respondents indicated that they are very certain they are in compliance, and 45 percent consider themselves very prepared when considering future ACA provisions. Brokers continue to provide an essential service as educators and a source of assistance when employers need help with the ACA. More than three-quarters of employers report that they call or email their brokers when they have a question about the ACA.

Contact Gowrie Group for more information or a complete copy of this year's survey.



New COBRA Guidance (cont.)

Exchange plan coverage may help individuals make informed decisions about their health coverage.

Also, on May 2, the DOL issued a model notice for the Children's Health Insurance Program Reauthorization Act (CHIPRA) that includes similar updates related to Exchange coverage.

Clarification for COBRA Qualified Beneficiary Enrollment in the Exchanges
On April 21, HHS issued an **FAQ** clarifying when a COBRA qualified beneficiary may enroll in a qualified health plan (QHP) through an Exchange and receive subsidies for that QHP coverage. Under the ACA, individuals may enroll through the Exchanges only during an annual open enrollment or a special enrollment period (SEP). When initially eligible for COBRA coverage, an individual qualifies for an SEP for the Exchange. In general, once an individual has elected COBRA coverage, he or she can switch to a plan through the Exchange only during an annual open enrollment period or after the COBRA coverage is exhausted.

Because COBRA qualified beneficiaries may not have understood their Exchange enrollment rights, HHS created an additional SEP. This additional SEP allows COBRA beneficiaries to enroll in QHPs through the federally-facilitated Exchange (FFE) until July 1, 2014.

Consequences of Reimbursing Individual Insurance Premiums for Employees

On May 13, 2014, the Internal Revenue Service (IRS) issued FAQs addressing the consequences for employers that do not establish a health insurance plan for their employees, but instead reimburse employees for premiums for individual health insurance, either inside or outside of an Exchange. These arrangements are known as employer payment plans and are not in compliance with the ACA's market reforms.

Employer Payment Plans Background
In Revenue Ruling 61-146, the IRS provided that if an employer reimburses an employee's premiums for non-employer-sponsored health insurance, the payments are excluded from the employee's gross income. This allowed an employer to pay an employee's premiums for individual health coverage without the employee paying tax on the amount.

IRS Notice 2013-54, issued on Sept. 13, 2013, states that these employer payment plans are considered to be group health plans subject to the ACA's rules, including the annual limit prohibition and the preventive care coverage requirement. The Notice clarifies that these employer payment plans cannot be combined with individual health insurance policies, and thus fail to satisfy the ACA's market reforms. As a result, effective for 2014 plan years, these plans are essentially prohibited.

Consequences for Employers
Because employer payment plans do not comply with the ACA, the IRS has indicated that these arrangements may be subject to an excise tax of $100 per day for each applicable employee ($36,500 per year per employee). However, premium reimbursement arrangements made on an after-tax basis are allowed. Employers that plan on using after-tax premium reimbursement arrangements should be aware that these arrangements may be considered "employee benefit plans" subject to ERISA's requirements.

18 SHOP Exchanges Will Delay Employee Choice for 2015

The Department of Health and Human Services (HHS) released a list of federally-facilitated Small Business Health Options Programs (FF-SHOPs) where the employee choice model will be delayed until 2016. In total, 18 states will not provide the employee choice model in 2015.

Background
Under the ACA, each state must have an Exchange where individuals and small businesses may purchase health insurance. The Small Business Health Options Program (SHOP) is the Exchange for small businesses. The ACA requires each SHOP to provide an "employee choice model," in which the employer chooses a level of coverage and a contribution amount and employees can select any plan at that level.

HHS has delayed implementation of the employee choice model. For 2014 plan years, the FF-SHOP does not offer the employee choice model. Also, on May 16, 2014, HHS issued a final rule providing a transition rule for the employee choice model for 2015 plan years. This transition policy allows state regulators to recommend that employee choice not be implemented in that state for 2015 based on certain market conditions.

The List
On June 10, 2014, HHS released a list of 18 FF-SHOP states where the employee choice model will not be provided in 2015. These states include Alabama, Alaska, Arizona, Delaware, Illinois, Kansas, Louisiana, Maine, Michigan, Montana, New Hampshire, New Jersey, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota and West Virginia. Employers in these states will be able to offer employees a single health plan and a single dental plan through the SHOP Exchange.

Employee choice is expected to be available in all FF-SHOPs in 2016. Most state-run SHOPs began offering the employee choice model to small employers in 2014.

Please contact your Gowrie Group representative for more information.