



## Affordable Care Act Update: Employer Reporting Requirements



# Florida Government Finance Officers Association

Presented By:

*Ryan Wright*

Account Executive

[rwright@bbdaytona.com](mailto:rwright@bbdaytona.com)

*Matthew McGarvey*

Account Executive

[mmcgarvey@bbdaytona.com](mailto:mmcgarvey@bbdaytona.com)

December 12, 2014



# Health Plan Identifier (“HPID”)



- Identifies health plans in HIPAA standard transactions
- Insurer will obtain with respect to a fully-insured plan
- Employer must obtain with respect to a self-funded plan
- Deadline was set for November 5, 2014 for large plans (November 5, 2015 for small plans)
- On October 31, 2014 CMS announced a delay, until further notice

# Transitional Reinsurance Fee



- The TRF establishes a reinsurance pool to stabilize insurers in the individual market by imposing a fee on group health plans
- The TRF applies in 2014, 2015 and 2016
  - For 2014, the fee is \$63 per covered life
  - For 2015, the fee will be \$44 per covered life
  - For 2016, the fee is expected to be lower

# Transitional Reinsurance Fee



- For a fully-insured plan, the insurer will report and pay the TRF
- For a self-funded plan, the employer must report and pay alternatively, the TPA can report and pay on the employer's behalf

# Transitional Reinsurance Fee



- There are four Alternative methods available to count covered lives
- For 2014, the headcount reporting was due by November 15, 2014
- On November 14, 2014 HHS extended the deadline to December 5, 2014
- The reporting form is available on [www.pay.gov](http://www.pay.gov)

# Transitional Reinsurance Fee



- Payments to be made in two installments by the following dates:
  - January 15 of the following calendar year
  - November 15 of the following calendar year
  - Installments are not equal (i.e., for 2014, \$52.50 per covered life is due on January 15, 2015 and \$10.50 per covered life is due on November 15, 2015)
  - Alternatively, payment may be made in one installment by January 15 of the following calendar year



# Minimum Value Plans



- In order to avoid the \$3,000 penalty under the pay or play, a large employer must offer full-time employees minimum essential health coverage that is affordable and of minimum value
- Some vendors have been offering large employers low cost plans that technically meet minimum value under the MV calculator but do not offer inpatient hospitalization and/or physician services

# Minimum Value Plans



- On November 4, 2014 the IRS issued Notice 2014-69 announcing plans to issue regulations requiring group health plans to offer both inpatient hospitalization and physician services in order to be considered to provide minimum value
- If an employer entered into a binding written commitment to adopt such a plan or already started in enrollment for such a plan before November 4, 2014, this requirement won't apply for the first year



# Premium Reimbursement Arrangements



- On November 6, 2014, HHS, the DOL and the IRS jointly issued FAQs to further clarify previous guidance
- The ACA prohibits employers from reimbursing employees for the cost of individual insurance obtained through the exchange or in the private market

# Premium Reimbursement Arrangements



- This prohibition applies whether the employer reimbursement is on a pre-tax basis or on a post-tax basis
- This prohibition also applies to employee's pre-tax payment of premiums for individual insurance through a Section 125 cafeteria plan
- An employer may provide employees with additional taxable compensation, subject to no restrictions, which employees may choose to use to purchase individual insurance

# Final Regulations – Pay or Play



- Steps to get ready
  - Measurement period
  - SPD/administrative practices
  - Leased employees
  - Reporting

# Measurement Period



- Step One: Be prepared to prove who isn't a full-time employee
  - If less than all employees eligible
  - If coverage isn't affordable for all

# Measurement Period



- The final regulations provide two methods for employers to determine whether an employee is full-time — a monthly measurement period and a look back measurement period with a stability period
- Under the monthly measurement period, an employer will be required to offer coverage to any employee with at least 130 hours for the month
- Under the look back measurement period / stability period, an employer may determine which employees are full-time for a future period based on their hours of service during a look back period
- There may be a measurement period / stability period for certain new hires and a measurement period / stability period for all ongoing employees



# Measurement Period



- **New Hires**

- **Full-time employees**

- Employees who are employed, on average, at least 30 hours per week
    - Hours counted across all applicable large employer members
    - If a new hire is reasonably expected to be full-time upon start date, coverage must be offered no later than the first day of the month following the employee's first three months of employment
    - No exceptions for employees on short term assignments

# Measurement Period



- **Newly-hired variable hours, seasonal and part-time employees**
- **Variable hours employees** – employer can't determine on start date whether employee is reasonably expected an average of 30 or more hours per week
- Factors to determine include:
  - Whether the employee is replacing a full-time or variable hours employee;
  - The hours of employees in the same or comparable positions; and
  - Whether the job was advertised or communicated as full-time or variable hours

# Measurement Period



- **Seasonal employees** – work in a position for which the customary annual employment period is six months or less, with the employment period beginning at approximately the same time each year
- **Part-time employees** – employer reasonably expects on start date that employee will be employed, on average, less than 30 hours per week
- Newly-hired variable hours, seasonal and part-time new hires can be subjected to an initial measurement period of 3 to 12 months during which the employee must be credited with an average of 30 or more hours per week before health coverage is required to be offered under the pay or play

# Measurement Period



- Ongoing employees
  - All ongoing employees (including variable hours, seasonal, part-time and full-time) may be subject to a measurement period in order to qualify for coverage for the immediately following stability period

# Implementation



- Step Two: Modify SPD and Administrative Practices
  - Is measurement period language required to be included in SPD?



# Implementation



- If an otherwise ineligible employee is credited with an average of 30/hours/week during a measurement period what coverage must be offered?
  - Medical only?
  - All options?
  - Spousal coverage?
  - Same participant contribution?

# Implementation



- Transfers
- From variable hours, seasonal or part-time to full-time
- If during initial measurement period, must offer coverage by 1st day of 4<sup>th</sup> month after transfer
- Otherwise may wait until 1<sup>st</sup> stability period as of which employee is eligible based on look back measurement period

# Implementation



- From full-time to less than 30 hours / week
- Continue eligibility until 1<sup>st</sup> stability period as of which employee isn't eligible based on look back measurement period; or
- If employee initially offered coverage within 3 months of hire and later switches to less than full-time status, employer may apply a monthly measurement period mid-year to establish the reduction and terminate coverage before the end of the stability period

# Implementation



- Rehires
  - If an employee has a break in service and returns within 13 weeks (26 weeks for educational employers) the employee must be treated as a continuing employee
  - If the employee was previously enrolled in medical coverage, coverage generally must be offered as soon as administratively practicable upon return
  - Employee will be considered to be in the same measurement period upon return for purposes of eligibility for the next stability period

# Implementation



- Employees who resume work after a long break can be treated as a new hire



# Leased Employees



- Step Three: Don't forget to address leased employees

# Leased Employees



- If the employer has the right to direct and control the workers, the workers will be considered to be the common-law employees of the customer-employer as opposed to the temporary staffing agency for purposes of the pay or play

# Leased Employees



- The regulations allow the administrative services agreement between the employer and the temporary staffing agency to be modified to require the temporary staffing agency to offer group health coverage to the employee
- If coverage is offered and the temporary staffing agency charges the customer-employer an additional amount with respect to each employee who actually enrolls in that coverage it is considered to be an offer of coverage by the customer-employer for purposes of avoiding the \$2,000 penalty

# Leased Employees



- In order for large employers to take advantage of this option it should identify all temporary staffing agencies it utilizes and review the administrative services agreement with each agency
- If this approach is taken it does not necessarily relieve the customer-employer from liability under the \$3,000 penalty unless the offered coverage constitutes minimum value coverage which is affordable

# Final Reporting Regulations



- Step Four: Prepare for final reporting regulations
  - There are two types of reporting which will be required
    - Section 6055 reporting (individual mandate reporting)
    - Section 6056 reporting (pay or play reporting)



# Employer W-2 Reporting



- Requires *certain* employers to report cost of coverage under an employer-sponsored group health plan
- Does not mean coverage is taxable
- Only for informational purposes, not taxable reasons
- Includes tax-exempt organizations, and federal, state and local gov't entities

# What is an applicable employer?



- Any employer offering health coverage if ER is required to deduct and withhold employment or income taxes from an employee's wages under Sec. 3401/3402 of the Code



## What is not “Applicable Employer-Sponsored Coverage”?

- Stand-alone dental or vision coverage
- Contributions to an Archer medical savings account (MSA), health savings account (HSA) and salary reductions into a medical FSA (employer flex credits to a medical FSA are reportable)
- Health reimbursement arrangement (HRA)
- Employee assistance program (EAP), wellness program or on-site medical clinic, provided that the employer does not charge a premium with respect to that type of coverage provided under COBRA



## What is not “Applicable Employer-Sponsored Coverage”?

- Coverage only for a specified disease (if it qualifies as a “HIPAA-excepted” benefit and is paid for on an after-tax basis by the employee)
- Coverage for long-term care
- Coverage only for accident insurance
- Hospital indemnity or other fixed indemnity insurance (if it qualifies as a “HIPAA-excepted” benefit, if the employer makes no contribution to the cost of coverage that is excludable from an employee's gross income, and if the premium is paid for on an after-tax basis by the employee)
- Contributions made on behalf of an employee to a multiemployer plan

# Reporting on Form W-2



- Reported in Box 12 of the Form W-2

22222		a Employee's social security number		OMB No. 1545-0008	
b Employer identification number (EIN)		1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code		3 Social security wages		4 Social security tax withheld	
		5 Medicare wages and tips		6 Medicare tax withheld	
		7 Social security tips		8 Allocated tips	
d Control number		9		10 Dependent care benefits	
e Employee's first name and initial Last name		Suff. 11 Nonqualified plans		12a	
		13 Statutory employee Retirement plan Third-party sick pay		12b	
		14 Other		12c	
				12d	
f Employee's address and ZIP code					
15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax
				20 Locality name	

Form **W-2 Wage and Tax Statement** 2014 Department of the Treasury—Internal Revenue Service  
 Copy 1—For State, City, or Local Tax Department





# Reporting on Form W-2

- **Premium Charged Method:** Used only for an employee covered by an employer's insured group health plan. The employer relays the premium that the insurer charges for the employee's coverage for the period.
- **COBRA Applicable Premium Method:** Must be used by those with self-insured plans. The employer calculates the applicable COBRA premiums to determine the reportable cost on Forms W-2, excluding the 2 percent COBRA administrative fee. If using a composite rate to determine the premium for active employees, but not to determine the applicable COBRA premium, employers may use the composite rate or applicable COBRA premium to determine the aggregate cost of coverage as long as the method is used consistently.



# Reporting on Form W-2



- **Modified COBRA Premium Method:** An employer may use this method when it subsidizes the cost of COBRA coverage. The amount reported is based on a reasonable good-faith estimate of the COBRA applicable premium for each period if the estimate is used to establish the subsidized COBRA premium. As an alternative, employers may report the COBRA applicable premium from each period in the prior year if that is the premium charged in the current year.



# Reporting on Form W-2

- If cost changes during year (non-calendar year plans), reportable cost must change based on monthly premiums in which EE was enrolled
  - Also applies to changes in coverage (e.g. adding/dropping dependent)
- Full responsibility falls on employer, no carrier requirement under the law
- Does not change the tax treatment of the benefit

# Individual Mandate Reporting



- Overview
- Purpose
  - Fulfill requirements under Code 6055/6056 reporting
  - Allows IRS to enforce:
    - ER Shared Responsibility (Valuable and Affordability requirements)
    - Individual Shared Responsibility (Individual Mandate requirement)
    - Eligibility for premium tax credit (coverage through Federal/State exchanges)

# Individual Mandate Reporting



- Timeline
  - Reporting for calendar year 2015
    - First statement to employees due in January 2016
    - First report to IRS due in February 2016
  - Develop solution and data collecting prior to calendar year 2015
- Employer Reporting
  - Employer shared responsibility under Section 4980H
  - Fully-insured and self-funded plans required to report

# Who is required to report?



- An Applicable Large (ALE): Averaged 50 full-time employees on business days during the preceding year
- Full-time status: working 30 or more hours per week and full-time equivalents (20 employees averaging 15 hours per week would amount to 10 full-time equivalents)
- Non-profit and governmental entities do NOT escape this reporting requirement

# Methods of Reporting



- General Method
  - ALE members must file Form 1094-C (transmittal) AND for each full-time employee a Form 1095-C (employee statement)
  - For self-insured plans, ALE members also use Form 1095-C
  - Non-ALE members (employers not subject to employer shared responsibility provisions under section 4980H) will fulfill requirement under Section 6055 using Forms 1094-B and 1095-B



# Methods of Reporting



- Alternative Methods
  - Reporting Based on Certification of Qualifying Offers
  - Option to Report Without Separate Identification of Full-Time Employees if Certain Conditions Related to Offers of Coverage Are Satisfied (98 Percent Offers)



# Brief Overview of Reporting

- What information must an ALE member report?
- When is the filing due?
- When must an ALE member furnish statements to FT employees?
- Who must file electronically?
- What third-party can be used to file forms?

# Questions

