ACA Refresher: Employer Mandate and Reporting

Construction Financial Management Association

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Agenda

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I. Which employers have to comply?
II. Which employees must get health coverage?
III. What does it mean for coverage to be "affordable"?
IV. Potential penalties
V. Reporting obligations

I. Who is subject to the Mandate?

–An “Applicable Large Employer” (ALE)

Applicable Large Employer

- 50 or more “full-time employees”
  - Count each employee working 30+ hours a week as one Full-Time employee.
  - Count hours of all the other employees for a month, divide by 120 to get FTE count.
  - Add full-time and FTEs for a month.
  - Average 12 month of previous year to get status for current year.
- Exception: Employer with more than 50 employees for 4 months (120 days) or less IF all employees beyond 50 were “seasonal workers”
- 2015 Relief: No penalty for ALE with 50-99

Who is the Employer?

- Entities that are members of a "controlled group" are treated as one employer
- All employees of the controlled group count to determine if the group has 50 or more
- If the group has 50 or more employees, each member is separately subject to "pay or play"

What is a “controlled group”?

- Parent-subsidiary group: at least 80% ownership of one entity by another
- Brother-sister group: same 5 or fewer persons own at least 80% in each entity and have identical ownership of at least 50% in each entity.
- There are complicated rules governing attribution of ownership interest.

II. Who Gets Coverage?

–A Full-Time Employee + Dependents

Who gets coverage?

- Full-time employees
  - Substantial compliance rule: offer coverage to at least 95%
  - 2015 Relief: substantial compliance = 70%
- Dependents of Full-time employees
  - Children under the age of 26
  - Definition of dependent does NOT include spouses
  - Employers don’t have to pay for dependent coverage—they just have to offer it

Who are Full-Time Employees?

- Full-time = average of 30 hours/week OR 130 hours/month
- Look-back measurement periods allowed for certain employees
  - Look-back method = optional safe harbor
  - Avoids “churning”
  - Eligibility for look-back method determined at time of hiring—what are the reasonable expectations?

Look-back Method

- ***Standard measurement period*** 3-12 months
- ***Stability period*** up to 1 year
- ***Administrative period*** up to 90 days
- Use for variable hour, seasonal, and part-time employees—not for full-time
- “Seasonal employee” = hired in position for which “customary” employment is 6 months or less
- “Customary” = nature of job is 6 months or less, and starts at same time of year each year

Sample Look-Back Schedule

- Standard Measurement Period: October 15-October 14
- Administrative Period: October 15-December 31
- Open Enrollment: November 15-30
- Stability Period: January 1-December 31

Example 1

- Mary works irregular hours—some weeks it may be 40 hours, other weeks none at all. There is no way to know what the annual average will be.
- The look back method can be used.
- From October 15, 2014 to October 14, 2015, Mary worked an average of 32 hours a week
- She must be offered coverage during open enrollment
- If she accepts, she can remain covered January 1-December 31, 2016, if employed.

Example 2

- Rick is hired with the expectation that he will work 20 hours a week.
- The look-back method can be used
- In 2015, the company had much more work than usual. From October 15, 2014 to October 14, 2015, Rick averaged 30 hours a week.
- He must be offered coverage for the period from January 1-December 31, 2016
- If he accepts, he remains covered in 2016, even if his hours decline.

What about non-hourly employees?

- Equivalencies can be used:
  - 8 hours for each day worked; or
  - 40 hours for each week worked
- BUT: Equivalencies can’t be used to count fewer than the number of hours actually worked.

Breaks in Service

- If a break is 13 consecutive weeks or more, the employee can be considered new upon return
- But don’t count special unpaid leave (FMLA, USERRA, jury duty) against the employee

III. What is Affordable?

– Less than 9.5% of employee’s household income

Affordability Safe Harbors

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- Employee contribution for lowest cost **employee-only** coverage is not more than 9.5% of:
  - *W-2:* Employee's W-2 wages
  - *Rate of Pay:* On monthly basis, 130 hours multiplied by hourly rate of pay
  - *Federal Poverty:* The Federal poverty level amount for a single individual ($11,670 in 2014)

Safe harbor examples

1. Jake earns $28,000 in W-2 income. Premiums up to $221/month are affordable. $28,000 ÷ 12 = $2,333.33; $2,333.33 x 9.5% = $221.66.
2. Julie earns $15 an hour. Premiums up to $185/month are affordable. $15 x 130 = $1,950; $1,950 x 9.5% = $185.25
3. Federal Poverty Line is $11,490 for a single individual. Premiums up to $92.39/month are affordable. $11,670 ÷ 12 = $972.50; $972.50 x 9.5% = $92.39

Affordability

- In addition to being affordable, coverage must provide “minimum value”
  - Plan’s share of total allowed cost of benefits is at least 60% (“Bronze level”)
  - Actuarial determination
  - Most employer plans exceed requirement

IV. Potential Penalties

4980H(a)
Sledgehammer Penalty

- Trigger: 1 or more employees get subsidy on exchange
- $2,000/year per full-time employee (calculated on monthly basis)
- First 30 are “free” (80 free in 2015)
- How to avoid:
  - Offer coverage to full-time employees and their dependents (children up to age 26)
  - Don’t miss more than 5% of full-time employees (or five employees)

4980H(b)
Unaffordability Penalty

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- $3,000/year per employee who gets subsidy on exchange (calculated on monthly basis)
- How to avoid:
  - Calculate premium for employee to meet an affordability safe harbor
  - Provide minimum value coverage

V. Reporting Obligations

Purposes of Reporting

1. Employers must report about:
    a. offers of health coverage
    b. if self-insured, enrollment in health coverage
2. Provide the IRS with data on each full-time employee—to administer individual mandate and employer mandate.
3. Provide employees with a statement that they can use to file taxes (and determine eligibility for a premium tax credit).

Forms 1094-C and 1095-C

- IRS has issued final forms and instructions for 2015
  - 1094-C—transmittal form
  - 1095-C—individual employee return/statement
- ALE, including ALE with 50-99 employees, must report.
- 2015 is first year reporting is required

1094-C
Certifications of Eligibility

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- Qualifying Offer Method
- Qualifying Offer Method Transition Relief
- Section 4980H Transition Relief (next slide)
- 98% Offer Method

1094-C
Section 4980H Transition Relief

1. ALEs with Fewer than 100 Full-Time Employees, Including FTEs.
2. Relief from Assessable Payments for ALEs with 100 or more Full-Time Employees or FTEs
   a. “first 80 free”
   b. offer made to at least 70% of full-time employees.
3. Employers with Non-Calendar Year Plans.
4. Other Relief for 2015.

1094-C
ALE Member Information

- Mark for all 12 months or for all months that apply:
  - The months during the calendar year for which minimum essential coverage under the plan was available
  - Full-time Employee Count for ALE Member
  - Total Employee Count for ALE
  - Aggregated Group Indicator (if applicable)
  - Section 4980H Transition Relief Indicator

1094-C
Other ALE Members

- Include the Name and EIN of any other ALE Members who were members at any time during the calendar year.

1095-C
Offer Codes for Line 14

- 1A. Qualifying Offer (MEC, MV, FPL safe harbor, offered to FT Employee, spouse, dependents).
- 1B-1E. MEC, MV
- 1F. MEC
- 1G. Offer to non-FT employee who enrolled in self-insured coverage.
- 1H. No offer.
- 1I. Transition relief for 2015

1095-C
Cost of Coverage for Line 15

- Use only if 1B, 1C, 1D or 1E is used on line 14
- Enter employee cost for single coverage
- Use lowest-cost option, if more than one available

1095-C
Safe Harbors for Line 16

- Use only if applicable; use only 1 code
- 2A. Not employed on any day of month.
- 2B. Not full-time employee, not enrolled.
- **2C. Employee enrolled in coverage.**
- 2D. Non-assessment period.
- 2E. Multiemployer interim rule relief.
- 2F-2H. Affordability safe harbors
- 2I. Non-calendar year transition relief.

1095-C
Coverage Information

- Use only if the plan is self-insured.
- Name of covered individuals and their SSN
- Obligation to request SSN of spouse, dependents.

Questions and Answers

Thank you for your time.

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