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Bernie Lowe & Associates, Inc.
"Beyond the Product"

Health Care Reform Update

IMPORTANT NOTICE REGARDING HEALTHCARE REFORM

Update #41 **December, 2014**

2014 - A Look Back at the Affordable Care Act

A majority of the provisions impacting employers and individuals were to be implemented in 2104, however, due to issues and concerns with the effects of the law and the 2104 mid-term elections, a lot of delays and changes took place to diminish the myriad of changes that would affect employers.

With 2014 just about over, let's take a look back at some of the provisions, changes and delays that took place this year.

- Almost all of the market reforms were implemented in 2014 without too much issue, such as;

Update to the children until age 26 rules	Guarantee issue and renewal rules
Rating restrictions	Limit on waiting periods
Update to the annual limit rules	Update to pre-existing exclusion rules
OOP limits to match HSA qualified plans	Essential health benefits
Wellness program changes	Mandatory coverage for clinical trials

- The Health Insurance Marketplace (exchange) was implemented. It was intended to provide the ability for Americans to shop for and enroll in affordable health coverage and allow for insurance premium and cost subsidies. The system failed on multiple levels which lead the way for the initial enrollment period to be extended and the individual mandate to be delayed three months.

  Issues with the marketplace also led to a change that expanded the hardship waiver, allowing some individuals to purchase catastrophic health insurance and those people who have had their plans canceled because of ACA regulations could now keep them. The administration later extended this waiver until October 1, 2016.

- The SHOP exchange was not ready to be launched so it was initially delayed for a month and later for a year until November, 2014. The SHOP exchange was originally scheduled to start its enrolment period on October 1, 2013.

- ICD-10 code adoption was delayed until at least October, 2015.

- Deductible caps of $2,000 for individual and $4,000 for families were removed by Congress to allow small employers the ability to offer higher deductible plans.

- The administration gave union administered plans an exemption from the reinsurance fee (one of the ACA's many new taxes). To make up for this exemption, non-exempt plans will have to pay a higher fee, which is being passed onto consumers in the form of higher premiums and deductibles.

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- On October 31, 2014, nearly on the eve of the otherwise applicable compliance deadline, CMS issued a Statement of Enforcement Discretion, delaying enforcement of the Health Plan Identifier (HPID) rules until further notice.

- The new taxes and fees are implemented in 2014. The annual fee on health insurers (insured plans only) was implemented costing employers 8 billion in 2014 and up to 14.3 billion by 2018. Also, the first of the three year transitional reinsurance program started costing employers $63.00 per member per month in 2014. Fees will reduce to $44.00 in 2015.

- Patient-Centered Outcomes Research Institute (PCORI) fee payment started for plan years ending between October 1, 2012 and September. 30, 2013. Payment of $1.00 per member per year was due in July, 2014. The fee moves to $2.00 for 2015.

- The employer-mandate was delayed again. The administration delayed provisions of the employer mandate, postponing enforcement of the requirement for employers with 50 to 99 full-time equivalent (FTE) employees until 2016 and relaxing some requirements for larger employers. Businesses with 100 or more FTE's must offer coverage to 70% of their full-time employees in 2015 and 95% in 2016 and beyond.

<u>What's on the radar screen?</u>

- If you haven't already, you should be preparing for the Employer Shared Responsibility provisions. These provisions require employers with 100 or more FTE's to offer coverage to 70% of all FTE's on the first day of the plan year that starts with the renewal on or after January 1, 2015. To do this employers must measure paid hours for all variable hour employees, i.e., non-full-time employees who are not offered coverage when hired. Any variable hour employee who averages 30 hours or more during this measurement period is considered full time and must be offered coverage, or the employer could face a penalty. Please note that the measurement of paid hours must be completed and coverage offered to those employees who were found to average 30 hours or more for an effective date that coincides with the renewal in 2015. Employers with 50 to 99 employees will go through the same process starting with their first renewal on or after January 1, 2016.

- Also, something to think about is the employer reporting requirements that will cover the 2015 calendar year and be reported in March of 2016. These regulations require all large employers to provide certain data to the IRS regarding the plan, plan participants and plan pricing (contributions).

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- Last, keep your eye on costs as the excise tax (Cadillac tax) will be coming around the corner in 2018. To be ready for this tax, employers need to be carefully looking at options to keep their annual costs below $10,200 for single coverage and $27,500 for family coverage, or face a 40% tax on costs that exceed those amounts. Yes, employee FSA contributions and employer HSA contributions are included in these cost calculations.

- Coming up mid 2016 will be the U.S. Supreme Court's interpretation of the challenge filed regarding premium tax credits on federal exchanges. The challenge asserts that health care reform's express statutory language, authorizes premium tax credits only for individuals enrolled through an exchange established "by the State," and therefore IRS regulations providing for premium tax credits on federal exchanges exceed the IRS's authority. If overturned, this will certainly nullify the individual mandate requiring individuals to be covered or face a penalty as well, as the employer shared responsibility and employer reporting requirements.

2015 is shaping up to be another turbulent year for healthcare reform with the employer shared responsibility provisions starting, the Supreme Court challenge and the changes that took place in the senate during the mid-term elections.