ACA
2013

AFFORDABLE CARE ACT GUIDE

Blue KC Small Employers

1-50 Employees

Kansas City

An Independent Licensee of the
Blue Cross and Blue Shield Association

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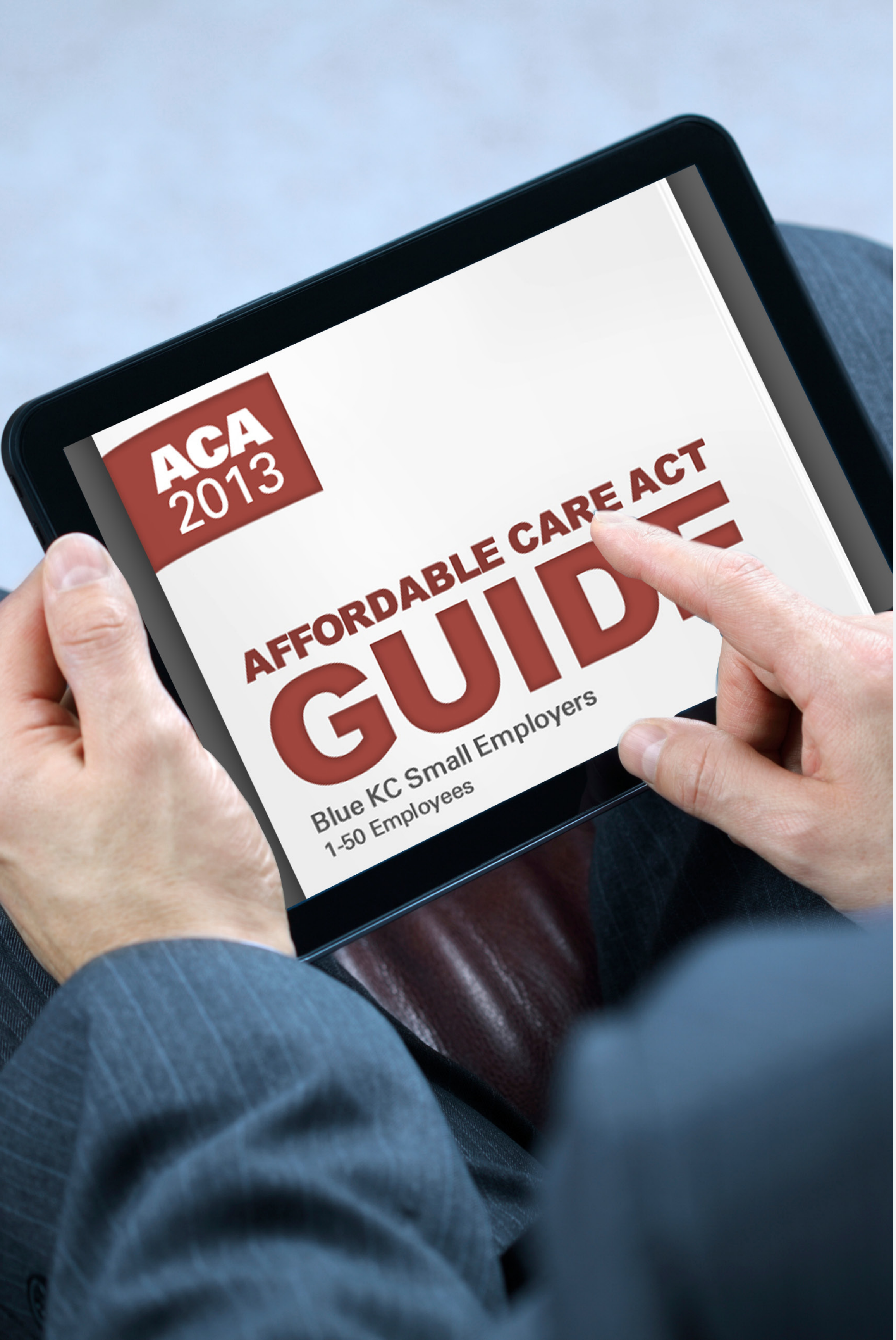

AFFORDABLE CARE ACT

Blue Cross and Blue Shield of Kansas City is Here to Help

Some provisions of the Affordable Care Act (ACA) have already been implemented and have changed the healthcare marketplace.

Starting on January 1, 2014, many additional changes will become effective. We have much of the information necessary to implement these changes, but we expect additional regulations and guidance over the coming year.

This easy-to-use guide provides a summary of some ACA provisions, as of April 1, 2013 and is subject to change at any time thereafter. It is not intended to be comprehensive, and does not constitute legal or tax advice. Consult your tax or legal advisor concerning how the ACA may impact your organization, and to confirm effective dates.

As the leading health insurance provider in the Kansas City region for 75 years, Blue Cross and Blue Shield of Kansas City (Blue KC) will continue to work in partnership with small employers and brokers, now and in the future. We hope you will find this document to be a useful resource and bookmark it for future reference.

What should a small business owner know?

We want to ensure you understand key provisions of the ACA that may be relevant to you and/or your employees. The remainder of this section outlines major provisions of the ACA that may directly or indirectly impact you and/or your employees. Understanding this information is important so you can make the best decisions for your company. Blue KC wants to provide you the necessary information for you and your broker to evaluate your options.

Small Employer Definition Changes

Under the Affordable Care Act (ACA), the definition of a small employer has changed to include total employees - both full-time and part-time. The ACA does not require employers to offer coverage to part-time employees even though they are counted when determining whether an employer is a small or large employer.

While the small employer category under the ACA generally applies to businesses with an average of one but not more than 100 employees, the law also permits states to restrict group size to a lower threshold until 2016. Currently, both Kansas and Missouri define small employers as those with 2-50 employees (full-time and part-time). ***In 2014, employers with 1-50 total employees (full-time and part-time) are considered small employers.***

Blue KC currently surveys employers annually about their size. We will use the information we collect in the annual surveys to comply with additional ACA regulations in the future. ***Please note*** the ACA uses group size information from the prior calendar year to determine a group's size

If you currently offer Blue KC coverage, and our records reflect you have 1-50 total employees (full-time and part-time), Blue KC will provide an alternative product(s) that complies with the new rules. Blue KC small employers will receive additional communication in the summer of 2013 with details related to your options and timing for decisions you need to consider.

Small Employer Changes

Product (Plan Design) and Rating (Pricing)

Under the Affordable Care Act (ACA), health insurers, like Blue KC, that sell health plans to small employers must comply with new product (plan design) and rating (pricing) rules.

These new rules are effective for new sales beginning January 1, 2014. For existing clients, the changes are effective at renewal on or after January 1, 2014. ***For example,*** a group that renews in December of 2013 does not have to comply with these new rules until their renewal in December, 2014.

PLAN DESIGN

(Applicable for groups with 1-50 full-time and part-time employees)

Grandfathered Plans

As of March 23, 2010, the day the ACA was enacted, the ACA permits plans and benefits that were already in effect to be kept, or in other words, "grandfathered." Newly-offered plans with effective dates after March 23, 2010 cannot be grandfathered.

Blue KC will no longer maintain grandfathered plans for groups with up to 100 employees effective January 1, 2014.

Essential Health Benefits

The ACA requires plans to cover Essential Health Benefits. These benefits cannot be subject to an annual or lifetime dollar limit. While the ACA defines 10 general categories of essential health benefits (see list below), regulations further defined the specific coverage required. In the states of Kansas and Missouri, the small employer plan with the highest enrollment in that state in 2012 is the standard on which Essential Health Benefits are based for 2014 and 2015 (benchmark plans). However, these benchmark plans have been adjusted to comply with other provisions of the ACA (ie., increased coverage for clinical trials and the loss of adult routine vision coverage).

Accordingly, Blue KC will be adjusting its small employer (1-50) products to essentially match the coverage and limits in these benchmark plans in order to be compliant in 2014.

The categories of services required to be covered are:

1. Ambulatory patient services
2. Emergency services
3. Hospitalization
4. Laboratory services
5. Maternity and newborn care
6. Mental health and substance abuse services including behavioral health treatment
7. Prescription drugs
8. Rehabilitative and habilitative services and devices
9. Preventive and wellness services and chronic disease management
10. Pediatric services, including oral and vision care

Deductible and Out-of-Pocket Limits

Non-grandfathered plans must comply with new out-of-pocket maximum rules under the ACA. The out-of-pocket maximum is the maximum out-of-pocket expenses an individual will incur each calendar year for in-network essential health benefits. Specifically, the in-network, out-of-pocket maximum must not exceed $6,350 for individual coverage or $12,700 for family coverage in 2014. Additionally, the rules require that all member cost sharing including deductibles, coinsurance and copays (including pharmacy) apply to this limit. As you may know, copays generally do not apply to the out-of-pocket maximum limits under Blue KC's current plans.

Except in limited circumstances, deductibles for small employer plans cannot exceed $2,000 for individual coverage or $4,000 for family coverage.

Blue KC is also modifying how it accumulates member cost sharing with these changes. Beginning at your renewal, any services received from in-network providers will apply to the in-network deductible and in-network out-of-pocket limits, and any services received from out-of-network providers will apply to the out-of-network deductible and out-of-pocket limits. This important change will further encourage members to seek care from in-network providers

Blue KC will be making changes to all of its small employer (1-50) plans to comply with this requirement.

Actuarial Value

Small employer plans sold or renewed in 2014 must meet specific actuarial value levels. Actuarial value is the amount of benefits the health plan pays out based on a standard population (in contrast to what the member pays in deductible, copays or coinsurance under the plan). The ACA designates four tiers of health plans available for purchase/renewal in 2014. Each tier is defined by its actuarial value:

- Bronze health plans have an actuarial value of 60 percent
- Silver health plans have an actuarial value of 70 percent
- Gold health plans have an actuarial value of 80 percent
- Platinum health plans have an actuarial value of 90 percent

The value may vary by plus or minus 2 percent and still be compliant.

Blue KC is designing new small employer (1-50) plans to comply with this requirement. Blue KC does not intend to offer Platinum level plans for small employers in 2014.

Waiting Period

Waiting periods for new employees cannot exceed 90 days. Waiting periods are the amount of time that must pass before coverage can become effective for an employee who is otherwise eligible for coverage under an employer-sponsored health plan.

Blue KC small employer plans will limit waiting periods to a maximum of 60 days beginning in 2014. Effective dates will continue to be the first of the month following the end of the waiting period.

Pre-existing Condition Exclusions

Plans cannot exclude coverage for pre-existing conditions for employees, spouses or dependent children.

Blue KC will be making changes to small employer (1-50) plans to remove these provisions during 2014 renewals.

Clinical Trials

Plans will be required to provide coverage for routine medical costs for individuals who are enrolled in clinical trials (e.g., lab work, physician office visits). Plans are not required to pay the cost of the clinical trial itself.

Blue KC will be making changes to small employer (1-50) plans to expand the current clinical trial benefit to comply with these provisions.

HMO Coverage

Blue KC will no longer offer an HMO option in its small employer (1-50) product suite in 2014.

PRICING

Modified Community Rating

A new formula called Modified Community Rating (MCR) will be used to set premiums beginning in 2014. Insurance companies must use modified community rating to price their products for individuals and small employers (1-50).

Under modified community rating, all members must pay the same premium regardless of their personal health. Costs can be adjusted only on the basis of family size, location (which can be an entire state or part of a state), tobacco use and age.

Blue KC has completed an impact analysis of how this change in rating methodology will impact existing customers. Some customers may see decreases in their rates as a result of the new methodology and benefit mandates while other customers may see increases.

Blue KC will communicate directly with employers in the second half of 2013 to help them understand their options and make the best decision for their company.

Taxes and Fees

Several new taxes and fees, including the Health Insurance Excise Tax, the Comparative Effectiveness Fee and the Reinsurer Fee currently apply to your coverage, or will apply in 2014.

Blue KC is responsible for paying these fees. You will not be assessed separately for these taxes and fees beyond the health insurance premium you pay for coverage.

Health Insurance Excise Tax

This fee is assessed on health carriers to provide funding for the administration of the ACA. It applies to insured plans.

The fee is effective January, 2014. Based on industry information, Blue KC expects this fee will be 2.4 percent of premium in 2014. Rate information for fully insured groups will reflect this fee. Blue KC will pro-rate this amount for clients with effective and renewal dates that roll over into 2014.

Comparative Effectiveness Fee

This fee is assessed on health plans to support the Patient Centered Outcomes Research Institute. This fee applies to all plans, including insured and self-funded plans.

The fee is effective for the period September 30, 2012 through October 1, 2019. The fee is $2 per member per year in 2013 and will be adjusted annually. Rate information for fully insured groups will reflect this fee. Blue KC will collect and remit this fee for fully insured clients as required by the ACA. If a group elects to offer a Health Reimbursement Arrangement (HRA) as part of its medical coverage, an additional fee may be incurred for all individuals enrolled in the HRA. Blue KC will not be allowed to collect or remit this fee under current I.R.S. regulations.

Reinsurer Fee

This fee is assessed on health plans and supports the transitional reinsurance program that will operate from 2014 through 2016 to stabilize risk across carriers in the individual market. This fee applies to all plans, including insured and self-funded plans.

The Department of Health and Human Services (HHS) will set a minimum national contribution rate sufficient to collect $10 billion in 2014. They may also increase the amount to account for administrative fees. This fee has been estimated at $5.25 per member/per month (PMPM) by regulators for 2014, and will be adjusted annually.

The reinsurer fee is effective January, 2014. Blue KC is obligated to pay the fee on behalf of all insured health plans.

Individual Coverage Mandate

In general, the Affordable Care Act (ACA) requires each individual in the United States to obtain basic healthcare coverage (minimal essential coverage) or pay a penalty on their taxes for themselves and/or their dependents. The penalty is the greater of either a flat dollar amount ($95 per adult for 2014) or a percentage of household income above the minimum tax return filing threshold (1 percent in 2014). Some individuals are exempt from this requirement.

Minimum essential coverage is very broad and includes the following types of coverage: individual policies, employer-sponsored coverage (including COBRA and retiree coverage), Medicare, Medicaid, CHIP, TRICARE and certain other coverage.

In 2014, during the open enrollment or special enrollment period, health insurers must issue coverage to any individual who applies for coverage. Health underwriting is not permitted, and rates for individual purchasers may only vary based on age, geography and tobacco use.

Individuals with certain income levels are eligible for government assistance when they purchase individual coverage on the Health Insurance Marketplace, commonly referred to as the Exchange. This assistance, or Advanced Premium Tax Credit is also referred to as a subsidy. ***This subsidy is only available for coverage purchased on the Individual Marketplace Exchange.***

EMPLOYER SHARED RESPONSIBILITY PAYMENT (PAY OR PLAY MANDATE)

Regardless of an employer's size, the employer may elect not to provide health insurance coverage to its employees. However, some employers may be subject to penalties enforced by the Internal Revenue Service if an employee purchases coverage on the Individual Marketplace Exchange and obtains a government subsidy.

Employers subject to the rule can avoid the penalty by offering group coverage that is 1) affordable and 2) provides a minimum level of coverage to substantially all of their full-time employees and their dependents (excluding spouses). If an employer does not offer a plan to every full-time employee, and any employee receives a premium tax credit or subsidy through the individual Exchange, the employer may be subject to penalties. ***Blue KC recommends employers consult their tax or legal advisor to answer detailed questions.***

Blue KC small employer plans will meet the minimum value requirement, or include an appropriate disclosure to inform employers that a particular plan does not meet the requirement. We are in the process of finalizing our plan designs.

This publication is provided for educational and informational purposes only and does not contain legal advice. The information should in no way be taken as an indication of future legal results. Accordingly, you should not act on any information provided without consulting legal counsel. To comply with U.S. Treasury Regulations, we are informing you that, unless expressly stated otherwise, any tax advice contained in this communication is not intended to be used and cannot be used by any taxpayer to avoid penalties under the Internal Revenue Code, and such advice cannot be quoted or referenced to promote or market to another party any transaction or matter addressed in this communication. The information provided is subject to change.

OVERVIEW

Under the employer shared responsibility payment provision (pay or play mandate), an applicable large employer will be subject to a penalty if the employer fails to offer minimum essential coverage to all full-time employees and their dependents, meeting both (1) affordability and (2) minimum value standards, and at least one full-time employee receives a subsidy through the Exchange. Employers who employee an average of 1-49 employees (full-time employees and full-time equivalents) are exempt from this rule.

- Full-time is defined as working, on average, 30 hours per week or 130 hours per month.
- The term dependent does not include a spouse for purposes of this rule.
- The only way an applicable large employer can avoid being subject to a penalty entirely is if it offers all of its full-time employees and their dependents minimum essential coverage meeting affordability and minimum value standards.

Minimum Essential Coverage

For the pay or play mandate, minimum essential coverage broadly means major medical coverage offered by the employer.

Coverage for an employee under an employer-sponsored plan is affordable if the employee's required contribution for the least expensive available self-only coverage does not exceed 9.5 percent of the employee's household income for the taxable year.

A plan fails to provide minimum value if the plan's share of the total allowed costs of benefits provided under the plan is less than 60 percent of those costs.

Penalties

One of two penalties may apply if at least one full-time employee receives an Exchange subsidy:

1. If the ***employer does not offer coverage*** to substantially all of its full-time employees (at least 95 percent) and their dependents, then it may be subject to a penalty of $2,000 per each of its full-time employees (minus the first 30); ***OR***
2. If the employer does offer coverage to substantially all of its full-time employees (at least 95 percent) and their dependents, but the ***coverage does not meet affordability or minimum value standards***, the employer may be subject to a penalty of the lesser of $3,000 per full-time employee that actually receives a subsidy on the Exchange, or the penalty under 1 above, if it is less.

DETERMINATION OF LARGE EMPLOYER STATUS

Applicable Large Employer

An employer who employs an average of at least 50 full-time employees, including full-time equivalents, on business days during the preceding calendar year.

Full-time Employee

Those employees that work on average at least 30 hours per week or 130 hours per month.

Full-Time Equivalents

All employees who are not employed an average of 30 hours of service per week in the preceding calendar year. To determine full-time equivalency (FTE), calculate the total hours of service in a month for employees who are not full-time and divide that number by 120. The resulting number represents that month's full-time equivalent total for that month.

Calculate Large Employer Status

1. ***Full-Time Employee:*** Calculate the number of employees who work at least 30 hours per week or 130 hours in a given month.
2. ***Full-Time Equivalency:*** Add up the total hours worked during a given month for every non full-time employee and divide by 120.

   For step 1 and 2 you must include actual hours worked and paid time off. Include fractions at this point.
3. Add together the results of Step 1 and Step 2.
4. Repeat steps 1, 2 and 3 for every month of the preceding calendar year.
5. Add up the total for the year.
6. Divide the total from Step 5 by 12.

   Drop all fractions by rounding down at this point.
7. Step 7: If the result in Step 6 is 50 or greater, your company is a large employer for purposes of the rule and may be subject to potential penalties.

   Note: Seasonal exception: if your company exceeds the threshold of 50 employees for 120 days or less during the calendar year solely due to "seasonal" employees, your company is not a large employer for purposes of this rule.

   Example: Assume ABC Corporation starts the year with 38 full-time employees and 1,800 hours of part-time employees.

   January – March: ABC is stable with the starting employees, no one quits and ABC does not hire anyone. Part-time employees work 1,800 hours.

1. 38 full-time employees
2. 1,800 hours divided by 120 = 15 full-time equivalents
3. 53 total full-time and full-time equivalent employees

April - July: In April, ABC has some part-time employees quit and hires one new full-time employee.

1. 39 full-time employees
2. 1,500 hours divided by 120 = 12.5 full-time equivalents
3. 51.5 full-time and full-time equivalent employees

August: Eight full-time employees unexpectedly quit, ABC adds part-time hours to make up for the loss of productivity.

1. 31 full-time employees
2. 2,040 hours divided by 120 = 17 full-time equivalents
3. 48 full-time and full-time equivalent employees

September – December: ABC replaces most of the full-time employees and cuts part-time hours.

1. 36 full-time employees
2. 1,440 hours divided by 120 = 12 full-time equivalents
3. 48 full-time and full-time equivalent employees
4. Done above
5. Total for the year = 605
6. 605 ÷ 12 = 50.4
7. Greater than 50 means the employer is a large employer for purposes of the rule and is subject to potential penalties

AFFORDABILITY SAFE HARBORS

Form W-2 Safe Harbor

This safe harbor provides employers the option of determining affordability based on the employee's Form W-2 wages (instead of on household income, which employers often will not know).

Application of this safe harbor is determined after the end of the calendar year on an employee-by-employee basis. The employer would determine affordability by comparing the employee's annual wages as reported in Box 1 of the Form W-2 and the employee contribution for the calendar year for the employer's lowest-cost self-only coverage that provides minimum value. So long as the employee's contribution for the calendar year towards the employer's lowest-cost self-only coverage is less than 9.5 percent of the employee's W-2 wages for the year, then the employer would be permitted to rely on the safe harbor and would not be subject to the pay or play penalty.

> **Example:** Employee's wages as reported in Box 1 on the Form W-2 amount to $50,000. The required employee contribution for the year towards the employer's lowest-cost self-only coverage is $3,000. Since $3,000 is only 6 percent (within the 9.5 percent requirement) of the employee's W-2 wages, the employer satisfies the affordability safe harbor with respect to the employee.

Rate of Pay Safe Harbor

This safe harbor permits an employer to compare the employee's monthly contribution amount towards self-only coverage to the employee's projected monthly income using the employee's rate of pay at the beginning of the plan year.

Coverage will be affordable if the monthly contribution towards self-only coverage is 9.5 percent or less of the employee's monthly wage or salary.

Hourly Employees

The employer would determine the hourly pay rate for each hourly employee and multiply that rate by 130 hours per month. The employer would then compare the employee's monthly contribution amount to the employee's monthly wage.

Salaried Employees

Employer would use the employee's monthly salary to compare with the employee's monthly contribution amount.

> **Example:** Employee is paid $10.00 per hour for the entire year. Applying the rate of pay safe harbor, it is assumed that the employee earns $1,300 per month. Employee's required contribution towards self-only coverage is $100 per month. Since $100 is less than 9.5 percent ($123.50) of employee's monthly income, the coverage that is offered is deemed affordable.

Federal Poverty Line Safe Harbor

Employees with incomes below 100 percent of the federal poverty level (FPL) are not eligible for a premium tax credit on the Exchange, which is a precondition to an employer's liability under the pay or play mandate. As such, an employer will not be subject to a penalty on the basis that it fails to offer affordable coverage to those employees with incomes below 100 percent FPL. If an employer's offer of coverage is affordable to all of its employees earning more than 100 percent of the FPL, then the affordability standard is met.

An employer would use the most recently published FPL guidelines as of the first day of the plan year to apply the safe harbor. Employer would divide the FPL amount for a single individual by 12 to convert the FPL from an annual to a monthly amount.

The coverage offered is affordable if the employee's monthly cost for self-only coverage does not exceed 9.5 percent of the converted monthly FPL amount.

> **Example:** Assume a federal poverty level (FPL) of $12,000 for an individual in a given year. Employer divides this annual FPL by 12 to convert to a monthly FPL ($12,000 ÷ 12 = $1,000). As long as the employee contribution for self-only coverage each month is $95 or less (9.5 percent of $1000), then the coverage is deemed affordable for all employees under the safe harbor.

CALCULATING THE PENALTY

If an employer is determined to be an applicable large employer for purposes of the pay or play mandate, and at least one full-time employee receives a subsidy on the Exchange, the employer will be liable for one of two penalties.

Stronger Penalty

Employer does not offer an eligible employer-sponsored plan to ***substantially all*** (at least 95 percent) of its full-time employees and their dependents, and at least one full-time employee obtains a premium tax credit subsidy on the Exchange.

Step 1: Calculate the number of full-time employees.

Step 2: Subtract 30 from the Step 1 result.

Step 3: Multiply the Step 2 number by $2,000

> **Example:** Employer has a workforce of 100 full-time employees, making it an applicable large employer under the rule. Employer does not offer any coverage to its full-time employees. At least one full-time employee receives a subsidy on the Exchange. Employer will pay a penalty of $140,000 ((100-30) x $2000 = $140,000).

Softer Penalty

Employer does offer an eligible employer-sponsored plan to ***substantially all*** (at least 95 percent) of its full-time employees, and their dependents, but at least one full-time employee obtains a subsidy on the Exchange because the employer's coverage is not affordable or fails to meet the minimum value standard.

Step 1: Determine the number of full-time employees who actually obtained a subsidy.

Step 2: Pay the lesser of:

a. The number of employees from Step 1 multiplied by $3,000.
b. The amount under the Stronger Penalty.

Example: Employer has a workforce of 100 full-time employees, making it an applicable large employer under the rule. Employer does offer coverage to substantially all of its full-time employees and their dependents. However, two full-time employees receive a subsidy on the Exchange because the employer's coverage is considered unaffordable. Employer will pay a penalty of $6,000 (2 full-time employees multiplied by $3,000).

Note: The Softer penalty is designed so that an employer that offers coverage to substantially all of its full-time employees will never pay more of a penalty than it would have had it not offered coverage at all.

Full-Time Employee Status with Optional Safe Harbor Method

The statutory language of the pay or play mandate provides that the determination of full-time employee status is required to be calculated on a month-to-month basis. However, due to anticipated administrative difficulties in determining the full-time status of employees on a monthly basis, the I.R.S. has provided an optional safe harbor method as an alternative. You can see page 14 of this document for help with the calculation to determining large employee status.

For details on this methodology, contact your legal or tax professional.

Exchanges

Exchanges are online marketplaces where individuals and small employers can shop for coverage. Beginning with open enrollment on October 1, 2013, each state is required to have an Exchange set up to sell coverage to individuals and small employers.

Each state has the option of operating its own Exchange or the federal government will run the Exchange. Kansas and Missouri have decided not to offer their own healthcare Exchange, so their Exchanges have defaulted to be operated by the federal government.

INDIVIDUAL HEALTH INSURANCE MARKETPLACE

The federally-facilitated, Individual Health Insurance Marketplace is an online marketplace, or Exchange, where individuals can purchase health insurance. Individuals eligible for the Advance Premium Tax Credit, commonly referred to as a subsidy, must purchase a plan on the individual Exchange to receive the subsidy.

Important Note: Blue KC will continue to offer individual products in 2014. We will offer products on the Individual Health Insurance Marketplace in addition to offering a broader product suite off-Exchange through our existing distribution channels. Blue KC will work with current individual customers, and their brokers, to educate them about changes that will be occurring with their plans and inform them of their options.

SMALL BUSINESS HEALTH OPTIONS PROGRAM

In addition to the Individual Health Insurance Marketplace, the ACA also establishes the Small Business Health Options Program (SHOP) Exchange. The SHOP Exchange is an online marketplace for small employers to purchase health insurance. In 2014, businesses with 1-50 full-time or full-time equivalent employees are eligible to enroll. Even if a business grows larger than 50 employees, it can remain in the program once it is enrolled. Some small employers may be eligible to receive a tax credit if they purchase coverage through the SHOP Exchange.

Important Note: Blue KC will continue to offer individual and small employer products in 2014. We will offer products on the individual Exchange and the SHOP Exchange in both Kansas and Missouri. We will also offer a broader product suite off-Exchange through our existing distribution channels. Blue KC will work with current individual and small employer customers, and their brokers, to educate them about changes that will be occurring with their plans and inform them of their options.

Given these changes in the market, Blue KC expects that many small employers will continue to offer group coverage while some may consider dropping group coverage. We encourage small employers to work with their broker to make this important decision.

Notifications, Reporting and Other Information

EXCHANGE NOTIFICATION REQUIREMENTS

Employers will be required to inform eligible employees of the health insurance Exchange offered in the state, and the availability of the premium tax credit. The notification must include an Exchange service description; subsidy availability in the event an affordable, minimum-value plan is not offered; and premium/tax implications of purchasing on the Exchange. We expect a sample notice will be issued at a later date. The notice requirement has been delayed until further guidance is issued.

REPORTING

Employers must report to the federal government the coverage they provide to full-time employees. They must also notify their employees of what they reported to the federal government. It is unclear what information small employers will be required to report. Blue KC intends to work with small employers and their brokers, after regulations are published, to help small employers understand their responsibilities and how Blue KC can help to meet them.