Health Care Reform - What does it mean for the Small Massachusetts Employer?

There is a lot of information floating around about health care reform. If you are like most business owners, the plethora of information is confusing and may leave you feeling like you don’t know what to do or where to turn. I’ll attempt to add some clarity by providing seven facts relevant for Massachusetts small employers.

#1: First of all, what is it called? Patient Protection and Affordable Care Act (PPACA). That is the formal name, but it frequently goes by the ACA or ObamaCare.

#2: MA is ahead of the pack. Massachusetts Health Care Reform went into effect in 2006. According to the Commonwealth Health Insurance Connector Authority and Executive Office of Health and Human Services, Massachusetts now has a 98% health coverage rate, the best in the nation. Some of the federal mandates, such as coverage being offered to children to age 26, have been in effect in Massachusetts due to our state law.

#3: Summary of Benefits & Coverage (SBC's) must be available on the first day of open enrollment periods starting September 23, 2012. For the employer with an insured plan, work closely with your carrier or your insurance broker to ensure that SBC's are distributed to your employees. In many cases, SBC's will be provided to you and you will be responsible to distribute them to your employees. SBC's include features such as definitions, coverage descriptions, exceptions, continuation of coverage and renewability provisions and coverage examples.

#4: The Small Business Health Insurance Tax Credit may apply to your business. Qualification criteria for this incentive include:

- Must have less than 25 FTE's
- Must pay an average wage of less than $50,000/year (excluding owners)
- Must pay at least 50% of health insurance premiums for your employees

If those conditions apply, you may be eligible for a tax credit up to 35% of your employee health insurance costs (25% for non-profit businesses) in 2013. The tax credit increases up to as high as 50% (35% for non-profits) in 2014.

#5: Under ACA, as of January 1, 2014, all states must create a health exchange where employees can compare benefits, costs and the quality of services. In Massachusetts, our exchange is called The Connector. If a given state does not create their own, they will elect to participate in a federally run exchange. For those states with federally run exchanges, the effective date will move to January 1, 2015.

#6: For those employers with 50 or more full-time equivalent employees, they are considered an ‘applicable large employer’ subject to the federal “Employer Mandate” effective January 1, 2014. This mandate requires shared responsibility for employee health care coverage. If certain conditions are not met, an assessment may be imposed on the business.

How is the full-time equivalent calculation made? It is based on your 2013 employee census looking at full-time employees, including seasonal employees, for each month in the previous year divided by 12, PLUS total number of full-time equivalent employees, including seasonal employees, for each month in the previous year divided by 12.
• All employees who work 30 or more hours per week are considered full-time.
• The calculation of full-time equivalents (FTE’s) must be based on 30 hours per week or 130 hours per month.
• If you have seasonal employees and your monthly average employee count exceeds 50, you may be eligible for a seasonal exception if your calculated full-time workforce exceeds 50 for four or fewer calendar months (does not need to be consecutive months).

What conditions must be met to avoid an assessment?  The employer must provide health benefits with “minimum value” and it must be “affordable”

• Minimum Value: Employers must cover at least 60% of the total allowed costs of benefits provided
• Affordable: The employee cost must not exceed 9.5% of their income

#7: Massachusetts employers have a separate state mandated condition. It requires employers of 11+ full-time equivalent employees in Massachusetts to make a fair and reasonable contribution toward coverage for full-time employees, or pay a Fair Share Assessment, and to offer both full-time and part-time employees a pre-tax, payroll deduction plan (a section 125 plan) for their own health insurance premium payments. The FTE calculation is based on 40 hours per week for 50 weeks per year. The Fair Share Assessment calculation methodology can be found at https://fsc.detma.org.

As of July 1, 2013

• The Massachusetts FTE threshold increases to 21.
• The Fair Share Assessment calculation changes to exclude those employees with acceptable and documented alternative health coverage (i.e. covered under a spouse’s plan).

While I tried to add clarity, it is readily apparent that health care reform regulations are anything but clear. Additionally, this article did not cover every provision and the laws are continuing to evolve at the state and federal level for health care reform. Seek out the assistance of your employee benefits provider or an experienced HR professional to ensure that your business addresses the health care requirements in a cost-effective way and to ensure that your business is fully compliant.

Thank you to Telamon Human Capital Resource Group and Sheehan, Phinney, Bass & Green for inviting me to their Health Care Reform Update 2013. Their presentation was a source for this blog. Additional information for this blog was found at http://www.mahealthconnector.org.
Frequently Asked Questions associated with Health Care Reform

1. Is Massachusetts going to address differences between Massachusetts health care reform regulation and the requirements of ACA?

Yes. According to the Strategic Plan-in-Brief, 2013-2015 published by the Commonwealth Health Insurance Connector Authority, “The Health Connector has been a major contributor to the success of Massachusetts health reform. The organization now morphs into “Connector 2.0” – a health insurance exchange that not only complies with the federal Affordable Care Act when the main provisions in the law take effect in 2014, but also makes it easier than ever for individuals and small employers to access comprehensive, affordable health insurance.”

Reconciliation of the state versus federal health care reform is underway and more guidance will be forthcoming in the coming months.

2. Can you tell me more about the changes to Massachusetts employer fair share assessment calculation that will go into effect on July 1, 2013?

The language for this is found in Massachusetts law, S. 2400, “An Act Improving the Quality of Health Care and Reducing Costs through increased Transparency, Efficiency and Innovation” (the “Act”). Act section 142, which adds new subsection (11) to 149 M.G.L. section 188(c), changes the fair share assessment calculation. It reads:

“In calculating the fair share assessment, employees who have qualifying health insurance coverage from a spouse, parent, veteran’s plan, Medicare, or a plan or plans due to disability or retirement shall not be included in the numerator or denominator for purposes of determining whether an employer is a contributing employer, as defined by 114.5 CMR 16.02. The employer shall keep and maintain proof of their employee’s insurance status, in a reasonable manner as defined by the authority.” (Emphasis added).

3. Are there wellness program incentives for small businesses associated with health care reform?

As of January 1, 2014, ACA is increasing wellness program incentives from 20% of cost of coverage to 30%. Tobacco cessation and prevention programs may offer benefits up to 50%. See the Department of Labor fact sheet for more guidance: http://www.dol.gov/ebsa/newsroom/fswellnessprogram.html

Massachusetts already provides small businesses a state tax credit of 25% of the costs associated with implementing a certified wellness program with a maximum of $10,000 per business per year. http://www.mass.gov/eohhs/consumer/wellness/health-promotion/massachusetts-wellness-tax-credit.html
4. **How can I learn more about Employer responsibilities and guidance on Massachusetts Health Care Reform?**

   Review the information, including an FAQ, found at the Health Connector: [https://www.mahealthconnector.org/portal/site/connector/template.PAGE/menuitem.26c01aac2120f4ce505da95c0ce08041](https://www.mahealthconnector.org/portal/site/connector/template.PAGE/menuitem.26c01aac2120f4ce505da95c0ce08041)

5. **How can I learn more about Employer responsibilities and facts on the ACA?**

   There is a concise, easy to read article that was published in early 2013 by Entrepreneur magazine that is targeted to business owners: [http://www.entrepreneur.com/article/225559](http://www.entrepreneur.com/article/225559)

   For more authoritative guidance, please visit: [http://www.dol.gov/ebsa/healthreform/](http://www.dol.gov/ebsa/healthreform/)