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Employers facing imminent health care mandates

Employers of all sizes soon will be forced to implement changes brought about by the Patient Protection and Affordable Care Act.

Despite a level of skepticism regarding the efficacy of government intervention, top concerns remaining fairly constant are attracting/retaining employees and maintaining compliance responsibilities.

Starting in March 2012, here are just a few of the mandates employers will be required to comply with:

- Issue a summary of benefits and coverage to applicants and employees in a government-prescribed format outlining their coverages in a uniform manner. It will be four pages double-sided.

But large employers already issue 100-page summary plan descriptions that are commonplace now just to avoid legal liability, and now they may be "faulted" for their length.

Failure to comply will result in a \$1,000 fine, with each employee and dependent representing a separate offense.

- The law also will change a longstanding distinction for flexible spending accounts, which currently have no annual limit, to \$2,500 in 2013. In 2013, employers will be required to collect 0.9 percent more in FICA taxes for wages of more than \$200,000.

- In 2013, employers must provide a notice to employees and new hires as to the upcoming existence of a state insurance exchange.

- In 2013, employers also will be subject to reporting to employees the cost of their employer-sponsored coverage on their W-2.

This reporting does not, supposedly, trigger a taxable event, but there also are more penalties for noncompliance.

And then there is 2014:

- Employers with more than 200 employees will be required to auto-enroll their employees in their health



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plan, including providing their opt-out rights and obligations under the plan.

Regardless of whether the group is insured or self-insured, the notice must include information about the state insurance exchange, its services, how to contact the exchange, and the availability of any premium assistance.

- If an employer's health plan does not pass certain affordability tests or does not cover at least 60 percent of the employee premium, employees will be eligible for federal subsidies and, in turn, the employer will be subject to an

annual \$3,000 penalty for each employee who receives an exchange subsidy.

- Dovetailing on this is a "play or pay" provision that will assess certain employers a penalty of \$2,000 per full-time employee if no health plan is offered, or even if one employee receives tax-subsidized coverage through the insurance exchange.

The law also will apply new nondiscrimination rules for companies that offer richer health benefits to senior or highly compensated employees. The financial penalty will be \$100 per employee for each day coverage is not offered.

Let's not forget the seasonal workers who work more than 120 days a year. Companies will have to pay a prorated penalty of \$1,200 per worker (beyond the first 30 workers) for not providing coverage, in addition to nondiscrimination rules or \$100 per employee per day not offered coverage.

In light of the upcoming changes, employers soon will need to make strategic decisions that may be based on multiple interpretations.

The responses are difficult to predict, as the trade-offs involved may affect the stability and even the viability of the group health insurance market.

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