

Here's why it's important to comply with the 95% coverage rule

By Guest Opinion

Published: June 14, 2013 at 12:15 am

Health and Human Services has published under the guise of health care reform more than 20,000 pages of new rules and regulations.

And it falls in line with a quote I found from the 19th century by the Quaker minister William Pollard: "Information is a source of learning, but unless it is organized, processed, and available to the right people in a format for decision-making it is a burden, not a benefit."

From the Affordable Care Act, let's examine a situation if the employer health plan renewal is Jan. 1, 2014, or sometime thereafter per the IRS Transitional Rules. If it's determined you are a "large" employer with 50 or more full-time (equivalent) employees, there are some things you can do to lessen the impact of any number of (non-tax deductible) penalties (taxes).

In view of the fact that "large employers" have to offer health coverage to 95 percent of their employees and their dependents, I would suggest the following: You should audit the demographics of your group and determine who is covered, who is eligible who has declined or waived coverage and who is part-time or seasonal.

Determining who is part-time and/or possibly eligible for coverage can be very complicated, but waiving coverage isn't. In fact, obtaining declination/waivers from employees who are not covered by their health plan may be the most important thing employers do in 2014 relative to this 95 percent rule.

And, I'm not talking about the waiver portion of the insurer's enrollment application. I'm talking about a generic declination/waiver form that not only is witnessed but includes the following statement: "Neither I nor my dependents have been induced or pressured to decline coverage by my employer, the agent/broker, or the insurance company. I and my dependents have waived such coverage of our own accord."

You will also no longer be allowed to offer class carve-out coverage or any other form of discrimination, such as management-only or preferred premium assistance schemes. In addition, you need to implement some degree of dependent verification. There are many instances (statistically 5 percent to 12 percent) where the employer is providing coverage for dependents who are no longer eligible for coverage. This could include dependents who are over the age of 26, former employees, family members who aren't blood relatives or don't have legal responsibility documentation and those no longer eligible for coverage after a divorce.

Sometimes, it's simply a result of a misunderstanding. And, keep in mind that insurance companies only verify dependent status at initial enrollment into their health plan and not on an ongoing basis. That's the employer's responsibility.

Now, in retrospect, why is it so important to comply with this 95 percent coverage rule? Because if any employee decides, for whatever reason, to go to the Insurance Exchange (Marketplace) it will trigger an automatic audit by the IRS and/or the Department of Labor.

I sure hope this is clear enough!

— Henry GrosJean has been an insurance broker since 1979 and has contributed numerous articles to various Arizona media outlets.