

The Affordable Care Act (ACA), or federal health care reform, imposes a number of requirements on employers. Whether you are a large or small employer, and whether you do or do not offer health coverage to your workers, some of the ACA's requirements apply to you.

The checklist below highlights ACA provisions that require employer action in 2016. To get started, the following definitions will help you determine which requirements apply to your situation:

- ▶ **Applicable large employer (ALE):** Employer, including all related employers in the same controlled group, that employed an average of 50 or more full-time and full-time-equivalent employees in the prior calendar year.
- ▶ **Full-time employee:** Employee that averages at least 30 hours of service per week (or 130 per month), as determined under one of two allowable measurement methods.
- ▶ **Grandfathered plan:** Group health plan that was in existence on March 23, 2010, and since then has not eliminated benefits, decreased the employer's share of coverage cost by more than 5%, or increased the employee's deductibles, copays or coinsurance over certain levels.
- ▶ **Group health plan:** Group medical plan (insured or self-funded plan) that provides minimum essential coverage (MEC). Dental- or vision-only plans, and most health flexible spending accounts, employee assistance plans, and fixed indemnity plans are not MEC.
- ▶ **Minimum value:** Group health plan's share of total allowed costs is at least 60% of such costs and plan includes substantial coverage for physician services and inpatient hospital services. Further, if the employee's cost to enroll for self-only coverage does not exceed 9.66% of income, the minimum value plan also is *affordable coverage*.

Actions Required in 2016

Notices

- Employer Notice about Health Insurance Exchanges (Marketplaces):** Provide to all employees within 14 days of hire.
- Grandfathered plan notice (grandfathered plans only):** Include with materials describing the plan's benefits; e.g., enrollment materials, summary plan description (SPD).
- Patient Protection Notice (non-grandfathered plans only):** Provide at enrollment and include in summary plan description (SPD).
- Summary of Benefits and Coverage (SBC):** Provide at enrollment and upon request.

Group Health Plan Design

- Cost-sharing limits (non-grandfathered plans only):** Limit the plan's annual out-of-pocket maximum for essential health benefits to no more than \$6,850 per person and \$13,700 per family (2016 plan year).
- Health flexible spending account limit:** Limit the amount of annual elective contributions to no more than \$2,550 (2016 plan year).

Group Health Plan Fees

- Patient-centered Outcomes Research Institute (PCORI):** For self-funded group health plans, count average number of participants for the plan year ending in 2015 and pay the corresponding annual fee by July 31, 2016.
- Transitional Reinsurance Program (TRP):** For self-funded plans that provide minimum value, report the plan's average enrollment count by November 15 and pay the corresponding annual fee by the next January 15, or in two installments, by January 15 and November 15. (Certain self-funded self-administered plans are exempt for 2016; these typically are union trusts.)

Reporting

- **W-2 Reporting of Employee Health Coverage Cost:** Report total cost of each employee's health coverage on Form W-2 (box 12). (Employers that filed fewer than 250 Form W-2s for 2015 are exempt for 2016.)
- **Employer Reporting (IRC § 6056) (ALEs only):** Prepare and distribute Form 1095-C to each person who was a full-time employee for any month in 2015 to report whether health coverage was offered. Form 1095-C is due by March 31, 2016; then file copies along with Form 1094-C with the IRS by May 31, 2016 if filing by paper (or by June 30, 2016 if filing electronically).
- **Health Coverage Reporting (IRC § 6055) (self-funded plan sponsors):** Prepare and distribute Form 1095-B to persons covered by the plan for any month in 2015, and file copies along with Form 1094-B with the IRS. Due dates are the same as shown for Employer Reporting above. If plan sponsor also is an ALE, use Forms 1095-C and 1094-C in lieu of Forms 1095-B and 1094-B.

Employer Shared Responsibility (ESR)

The ESR provision—often called the “employer mandate” or “play or pay”—requires ALEs to offer affordable minimum value coverage to full-time employees. The IRS may assess an ESR penalty if at least one full-time employee receives a government subsidy to buy an individual policy through an Exchange due to the ALE's failure to offer coverage.

To avoid the risk of penalties, determine whether each employee meets the ESR definition of full-time employee and, if so, offer coverage on a timely basis. IRS regulations provide guidance for determining full-time status by tracking each employee's hours of services based on specific measurement methods.

Note: *Certain ALEs with non-calendar year group health plans may qualify for transition relief to avoid potential ESR penalties for the period between January 1, 2016 and the first day of their 2016 plan year.*

Recordkeeping

Employers are advised to maintain detailed documentation of all materials, data and records used in meeting their requirements under the ACA. Examples include:

- Copies of required notices and description of distribution processes.
- Data used in determining enrollment counts for purposes of PCORI and TRP fees (self-funded plans).
- Data used in preparing statements and IRS forms (1094s, 1095s, W-2s, as applicable) and description of distribution and filing processes. If filing electronically, maintain records of testing protocols.
- If ALE, keep records of employee hours of service and measurement methods for administration of the ESR. Document, by employee, whether the full-time employee definition was met and, if so, document the employer's health coverage offer to the employee. Maintain proof of the plan's status as minimum essential coverage, minimum value coverage and/or affordable coverage, as applicable.