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TO: Certifying Officers, State Locations
FROM: New Jersey Division of Pensions and Benefits
SUBJECT: Employer Responsibility: Affordable Care Act (ACA)

Employer Shared Responsibility Provisions in the ACA

According to the Employer Shared Responsibility Provisions in the Affordable Care Act (ACA), effective January 1, 2015, applicable large employers (defined as those with at least 50 “full-time” or “full-time equivalent” employees) may face a penalty if they do not offer their full-time employees the opportunity to enroll in health care coverage that meets a standard of “affordability” and provides the employee with “minimum value.”

To determine whether employers are in compliance with the Employer Shared Responsibility Provisions, and to calculate and assess Employer Shared Responsibility Payments for employers who are not in compliance, the Internal Revenue Service (IRS) will require employers to file yearly returns under sections 6055 and 6056 of the Internal Revenue Code. These returns will require employers to provide information on their full-time employees as well as the standards and conditions of any health coverage offered by the employer.

Liability for Employer Shared Responsibility Payments

Applicable large employers may be assessed an Employer Shared Responsibility Payment, under section 4980H of the Internal Revenue Code by the IRS, if:

- a) The employer does not offer health coverage to substantially all (70% in 2015 and 95% thereafter) of its full-time employees (those averaging 30 hours of work per week or more) and their children, and at least one of the employer’s full-time employees receives a premium tax credit to help pay for coverage on a Health Insurance Marketplace.
 - The monthly penalty is equal to the total number of full-time employees employed by the employer (minus the first 30) multiplied by 1/12 of \$2,000.
- b) The employer does offer health coverage to substantially all of its full-time employees and their children, but the coverage is unaffordable or does not provide

minimum value to at least one full-time employee who receives a premium tax credit to help pay for coverage on a Health Insurance Marketplace.

- The penalty is calculated separately each month and is equal to the number of full-time employees who get coverage through a Health Insurance Marketplace and receive a premium tax credit to pay for their coverage multiplied by 1/12 of \$3,000. The payment owed in this scenario cannot exceed the amount that the employer would have paid had it not offered coverage at all.

The State of New Jersey as an Applicable Large Employer

For the purposes of determining whether an employer qualifies as an applicable large employer subject to the Employer Shared Responsibility Provisions in the ACA, employers must add the total number of their “full-time employees” to the total number of their “full-time equivalent employees.” The IRS defines a “full-time employee” as those who average 30 or more hours of work per week. This determination is generally made during a look-back period that the employer chooses to use. Viewed as a single organization, the State of New Jersey easily exceeds 50 full-time employees, and it is therefore considered to be an applicable large employer.

IRS regulations require the State to report all employees who meet their definition of “full-time.” However, the IRS **does not** require that all of these employees receive an offering of coverage. For the purpose of efficiency and to conform to the 95% coverage requirement, the State has elected to use the definition of full time employee as currently described under New Jersey Administrative Code, N.J.A.C. 17:9-4.2 (2015). Operating under this definition of full-time employment, the State will offer coverage to all of its full-time employees covered under payroll compensation codes 1, 2, and 3. Additionally, in accordance with N.J.A.C 17:9-4.4 (2015), no coverage will be offered to employees who are considered ineligible (employees paid under compensation codes 6, 7, and 8). State employees paid under compensation codes 6, 7, or 8, who were identified in the previous look-back period and **currently** have coverage under the State Health Benefits Program, will be grandfathered and continue to be offered coverage provided that they meet the IRS definition of “full-time” employee during every look-back period. Coverage will not be offered to newly identified employees in any current or future look-back period. By adhering to the New Jersey Administrative Code, the State will satisfy the IRS requirement of providing affordable coverage to over 95% of employees while also maintaining previous standards for full-time employment.

Please Note: Only employees who meet the full-time definition under the New Jersey Administrative Code are eligible for retired health benefit offerings. State employees covered under ineligible payroll codes will not be offered coverage, regardless of their coverage as an active member.

For any additional questions regarding the information provided, please send your inquiry to ACANJ@treas.nj.gov