PATIENT PROTECTION and AFFORDABLE CARE ACT(OBAMACARE)

AN OVERVIEW of EFFECTS on SMALL BUSINESS

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All materials presented represent best assessment of currently available data on this subject. This material should be verified with your legal/labor/accounting advisors.

AFFORDABLE CARE ACT

- AKA The Federal Patient Protection and Affordable Care Act, signed 3-23-2010
- 900 pages with many provisions and effective dates.
- Key Provisions:
- expand access to insurance
- increase consumer protections
- emphasize prevention and wellness
- Improve quality and system performance
- expand healthcare workforce
- curb rising healthcare costs

EXPAND ACCESS TO INSURANCE COVERAGE

- 1. Expand access to about 32 million uninsured Americans by expanding both private and public insurance.
- 2. Key provisions effective 1-1-14.
- 3. Require employers to cover their workers, or pay penalties, with exceptions for small employers.
- 4. Require individuals to have insurance, with some exceptions, such as financial hardship or religious belief.
- 5. Require creation of state-based(or multistate) insurance exchanges to help individuals and small business purchase insurance . Federal subsidies will limit premium costs to between 2 and 9.5% of income for those at 133% to 400% of poverty guidelines(family=1, $10,890.; family=3, $18,530.)
- 6. Expand Medicaid to cover people with incomes below 133% federal poverty guidelines.

INCREASE CONSUMER INSURANCE PROTECTIONS

- 1. Prohibit lifetime monetary caps on insurance coverage and limit the use of annual caps.
- 2. Prohibit insurance plans from excluding coverage due to preexisting conditions.
- 3. Prohibit insurance plans from cancelling coverage, except in cases of fraud.
- 4. Establish state-based reviews for "un-reasonable" insurance premium increases.
- 5. Establish an office of health insurance consumer assistance or an ombudsmen program.
- 6. Establish the share of premiums dedicated to medical services(minimum medical loss ratios)

OTHER PPACA INITIATIVES

- 1. Emphasize wellness and prevention – ie: grants to states for screening/education, requires insurance plans to cover certain preventive care without cost sharing, etc
- 2. Improve health quality and health system performance – ie : reduce medical errors, implement health information technology, demonstration projects to develop payment mechanisms to improve efficiency and outcomes, etc.
- 3. Promote Health workforce development – ie: reforms in graduate medical education, increases in health profession scholarship and loan programs, support for new primary care models(medical home), etc
- 4. Curb rising health care costs – ie: oversight on health care premiums and practices, emphasizing prevention, reducing uncompensated care, more transparency in health insurance premiums, etc.

EMPLOYER SIZE

- 1. In general, PPACA requires certain employers with 50 or more full time/full time equivalent employees to provide health care insurance for their FULL TIME CONTINUOUS employees , or pay a penalty beginning 1-1-14.
- 2. Business with less than 50 full time/ full time equivalent employees are exempted(averaged monthly over 12 months; 2013 employment numbers)
- 3. There are several scenarios which can present and require analysis to determine whether or not an employer is exempted.
- 4. The fine for not providing health care insurance is $2000./year per employee after the first 30 employees.
- 5. There are special provisions for agricultural employers who employ less than 50 full time/ full time equivalent workers but exceed 50 for less than 120 days because of seasonal workers.
- 6. Full time is now defined as >/= 30 hours per week or 130 hours per month.
- 7. Others

INSURANCE COVERAGE and TIMING

- 1. An applicable large employer must provide to its FULL TIME CONTINUOUS employees health insurance that is BOTH "affordable" and meets "minimal essential coverage"(not yet stipulated but at least major medical coverage).
- 2. Affordable means the health plan offered must cover at least 60% of value of benefits provided.
- 3. The employee's share of the premium cost does not exceed 9.5% of the employee's household income or 9.5% of W-2 income.
- 4. Large employers(>50 full time employees) must provide coverage to EXISTING full time employees 1-1-14. NEW full time employees must have coverage beginning in </= 3 months. New employees NOT expected to work FULL TIME for the ENTIRETY of the measurement period are not mandated to be insured.

EMPLOYERS EXEMPTED FROM INSURANCE MANDATE

- 1. Those that do not employ ANY full time (>/= 30 hrs per week) year round workers.
- 2. Those that DO NOT have 50 or more full time/ full time equivalent employees in any month during the year.
- 3. Those that have 50 or more full time/full time equivalents a month, but ONLY for 4 months (120 days) or less out of the year and employees over 50 perform seasonal work.
- 4. Applicable large employers that employ 30 or FEWER full time workers (the other workers are part time)are theoretically required to provide full time workers with insurance. However, the penalty provisions exempt the first 30 full time employees from the penalty calculation! Therefore it appears that "this employer" may not be in compliance with the law, BUT EXEMPT from penalty for not complying with the law!!

CALCULATIONS TO DETERMINE LARGE EMPLOYER STATUS

Business A has 30 full time employees (>/=30 hrs per week or 130 hrs per month) who work 40 hrs per week and 40 part time employees who work 20 hrs per week over throughout the year. How many FTE's?

1. 40 part time X 20hrs X 4wks = 3200 hours per month
2. 3200hrs/120 hrs per month (FTE works) = 27 FTEs
3. 30 full time employees + 27 FTEs = 57 total FTEs & FT
4. repeat the calculation for each of the 12 months in the prior year(2013). Add all totals for each month and divide by 12. If the number is 50 or greater, the employer is an Applicable Large Employer and must provide coverage beginning 1-1-14 or pay the penalty.
5. Seasonal worker caveat: If the total as calculated above is 50 or greater for 4 months (120 days) or less due to SEASONAL WORKERS, the employer is exempt. If more than 120 days, then FULL TIME YEAR ROUND workers must be provided coverage or penalty paid.

EXAMPLE EMPLOYER WITH SEASONAL WORKERS

- Business B has 4 full time workers working 40 hours for 12 months per year and 1000 seasonal workers working 50 hours per week for 8 weeks. How many FTEs and is insurance mandated?(Assuming a 12 mos observation / measurement period).
- 1. 4 full time X 12 months per year = 48 full time- months per year
- 2. 100 0 full time seasonal workers X 2 months per year = 2000 fulltime seasonal workers- months per year
- 3. 48+ 2000/12 = 171 employees on average per month; However employer is Exempt from insurance mandate due to SEASONAL WORKERS!(working < 120 days per year)
- If seasonal workers work > 120 days, Business B is mandated to provide coverage to 4 full time continuous workers.

CONCLUSIONS

- 1. Many , if not most ,New Jersey SEASONAL Farm operations likely will be exempt from the insurance mandate under the Patient Protection and Affordable Care Act!
- 2. Those working close to the mandate "trigger" of 50 FTEs will want to seek expert advice in creating a strategy/plan to optimize mandate requirements within their business. (ie more part time, less full time, carefully choosing "measurement period" in 2013, limiting surges of Seasonal workers to < 120 days).
- 3. MOST IMPORTANTLY - SEEK EXPERT OPINION AND GUIDANCE!!
- 4. Useful Resources: a. Compilation of PPACA ; US House of Representatives
- b. American Farm Bureau Federation summary at:
- http://www.njfb.org/newsletters/Information/healthcare.reform.pdf