UNICO MIDLANDS
EMPLOYEE BENEFITS | FINANCIAL SERVICES | CONSULTING

Weekly Q&A Session

Q&A FROM LAST WEEK'S WEBINAR

May, 29 2013

Question: How will employers know that employees have been allowed to get a subsidy through the Exchanges?

Answer: As we understand it, for those employees who elect to purchase coverage through the exchange even though they have employer coverage that is affordable and meets minimum value, the employer will not be penalized. For those employees who were not offered coverage or it didn't meet the requirements for affordability or minimum value, the government will contact the employer and assess the penalty. Employers are only required to offer coverage that is both affordable and provides minimum value. If an employee declines coverage and decides to go to the Exchange for coverage, and that employee receives a subsidy, the employer will have the opportunity to provide information that qualifying coverage was offered to the employee and that coverage was declined.
The DOL has provided a question and answer that directly answers your question (http://www.irs.gov/uac/Newsroom/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act):
"16. How will an employer know that it owes an Employer Shared Responsibility payment?
The IRS will contact employers to inform them of their potential liability and provide them an opportunity to respond before any liability is assessed or notice and demand for payment is made. The contact for a given calendar year will not occur until after employees' individual tax returns are due for that year claiming premium tax credits and after the due date for employers that meet the 50 full-time employee (plus full-time equivalents) threshold to file the information returns identifying their full-time employees and describing the coverage that was offered (if any)."

Question: Does the play or pay penalty apply to a large group prior to their renewal date in 2014 if the plan is on a fiscal year (7/1/14)?

Answer: For large employers, the DOL has issued special rules for plans not on a calendar year. In January of 2013, the Department of Labor announced "transition relief" for employers with non-calendar fiscal year health plans. As we understand it, if the plan is a non-calendar year plan as of December 27, 2012, the employer may qualify for this transitional relief. If the employer does qualify, PPACA mandates and penalties don't take effect until the first day of the health plan year in 2014 (in your case, July 1, 2014).
There are two components to the transition relief for fiscal year plans to determine if the penalties may apply. First, the transition relief applies with respect to employees who would be eligible for employer-sponsored coverage as of the first day of the fiscal plan year starting in 2014 under the plan's eligibility terms as in effect on December 27, 2012. If these employees are offered affordable, minimum value coverage no later than the first day of the plan year starting in 2014, the employer will not be assessed a shared responsibility penalty with respect to these employees for any period in 2014 prior to the beginning of the plan year that starts in 2014 and runs into 2015. So in the situation

you posed, if coverage were offered to all employees working 30 hours or more per week with the plan year beginning in 2014 (July 1, 2014), the first test would be met.
Second, transition relief applies to employers that have a significant percentage of their employees who are eligible for or covered under one or more fiscal year plans with the same plan year. If an employer offered coverage under a fiscal year plan to at least one-third of its employees (full-time and part-time) at the most recent open enrollment period before December 27, 2012 (or if the fiscal year plan covered at least one quarter of the employer's employees), the employer will not be subject to a shared responsibility payment with respect to any of its full-time employees until the first day of the plan year starting in 2014, provided that those full-time employees are offered affordable coverage that provides minimum value no later than that first day.
The full text of the transition rules can be found HERE: http://www.gpo.gov/fdsys/pkg/FR-2013-01-02/pdf/2012-31269.pdf.

Question: Will there eventually be requirement to extend coverage to dependents?

Answer: Currently, the ACA's proposed rule requires that coverage be offered to full-time employees and to their dependents. The IRS defines "dependents" for these purposes as the employee's children as defined in IRC Section 152(f)(1) (i.e., the son, daughter, stepson, stepdaughter or eligible foster child of the employee) who have not attained age 26. A child would be a dependent until the day before his or her 26th birthday. Plans are not required to provide coverage to spouses, only to dependents younger than 26.

The proposed rule allows a one-year good-faith period for plan sponsors to add dependent coverage to the plan if the plan does not currently cover dependents. If a plan sponsor takes steps to add dependent coverage during its plan year that begins in 2014, employers would not be liable for the employer penalty solely for failing to offer dependent coverage for that plan year.