

Issue Brief

The Elections Impact on the ACA

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With the re-election of President Obama, and very little change in the make-up of Congress, the path to full implementation of the Affordable Care Act (ACA) now seems clear. The ACA impacts employers in different ways depending on their size, employee demographics, current benefit strategy, and where they are located. Fortunately, no matter what you think about the law, we have been studying and planning for how it may affect employers for over two years. Now it is time to move forward to implement what is necessary for each particular employer.

Issues Employers Must Address In the Short Term

A number of ACA provisions are taking effect now, or in the very near term, including SBCs, W-2 reporting, limits on Health FSAs, and others. The first thing an employer must do is make sure that any of these provisions relevant to that particular employer are addressed as soon as possible.

Additional Regulations and Guidance Expected

It is expected that the regulatory agencies will move forward quickly with the release of additional guidance and regulations. There are a number of ACA issues important to employers where significant questions still exist, and further regulatory guidance is necessary.

Individual Subsidies and Individual Mandate Tax Effective 2014

Beginning in 2014, individuals with incomes less than 400% of the Federal Poverty Level (FPL) may qualify for a premium tax credit which would be applied toward the cost of purchasing individual health insurance through an Exchange. It is important for employees to understand that the tax credit is not available to individuals who are eligible for "affordable" employer sponsored insurance. Employers will also be required to send a notice to employees early in 2013 that informs them of Exchanges and the availability of the tax credit. This notice is guaranteed to generate many questions from employees.

Employer Coverage Requirements and Penalties

Beginning in 2014, the ACA requires employers with more than 50 employees to offer health insurance to all full-time employees, or face the possibility of paying a penalty. The impact of the coverage requirement affects various kinds of employers very differently, depending on current employee income demographics, employer plan design, and employer contribution strategy.

As we have analyzed specific employers, a few trends have become apparent. One of the most important things employers have discovered is that many face little or no risk of paying a significant ACA penalty. For example, employers with average (or above average) income employees, that offer "affordable" health insurance, are unlikely to pay an employer penalty. On the other hand, employers that currently do not offer qualifying coverage to all full time employees, or that require employees to pay relatively high contributions to participate, face greater challenges.

Decisions Facing States

Some major provisions of the ACA are greatly impacted by decisions made by individual states.

Exchanges

The ACA requires states to set up insurance marketplaces, called Exchanges, where health insurance companies and non-profit organizations will sell individual and small employer plans. The ACA defines small employers as less than 100 employees; however, states have the option to define it as less than 50 employees until 2017. If the state does not set up an Exchange, the Federal Government will operate one in that state.

It is also expected that insurance companies will continue to offer small group products outside the exchange in most states. However, the ACA imposes similar rules on policies sold inside or outside the exchange, so there may not be large differences between policies in the two markets.

The Federal Government is also preparing to offer at least 2 health plans through a Federal Exchange to individuals nationwide. These plans will be available to individuals beginning in 2014 in states that choose not to set up a state based exchange. It is unclear at this time if these plans will be offered to small groups.

Medicaid

Under the ACA, Medicaid eligibility is expanded to include anyone with an income up to 138% of Federal Poverty Level (FPL). Currently Medicaid eligibility differs significantly from state to state, with many states not offering any Medicaid coverage to adults without children regardless of income. Because of the recent Supreme Court decision, states have the option to opt-out of the expanded Medicaid eligibility. We expect many state legislatures to take up and debate this issue early in 2013.

Summary

It is expected that Congress will make additional changes to the law, and further guidance from the regulatory agencies could affect the way we interpret various provisions. However, the employer related rules in 2014 are likely to look very much like what is currently in place. We plan to issue regular updates, information, and guidance, not just on details related to regulations, but also practical help for employers to use to implement the policies and procedures required by the ACA.

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