

## BENEFITS CORNER



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### “What’s Next”

Now that the initial annual open enrollment period for folks looking to purchase their own health insurance has closed, the next phase of the Affordable Care Act (ACA or Obamacare) begins. The next phase will be all about the enforcement of the Individual Coverage Mandate. This will be no small feat and will require a whole bunch of new data to be supplied, organized and managed.

The heart of the ACA is the Individual Mandate. This is the provision that requires every legal United States resident to have qualifying health insurance coverage. Failure to have coverage will result in a tax penalty that is the greater of \$95 per adult or one-percent of household income. You must have signed up for coverage by March 31, 2014 to avoid this penalty.

Now comes the tricky part- enforcing this requirement. You might think that the easy way to enforce this would be to have any health insurance plan that provided you coverage throughout the course of the calendar year to provide you with a special 1099-like statement. This could be used to prove on your tax return that you and your family had the requisite coverage. That would be way too easy!

The IRS, while charged with enforcing the individual mandate, has been hindered from using its normal enforcement methods for policing this requirement. Instead, there will be a myriad of new reporting requirements for health plans and employers to provide to the IRS in order to

create a database to show whether you had the coverage.

These new reporting requirements are also tied to the Employer Mandate. The Employer Mandate is the requirement that all companies having 50 or more employees must provide coverage to their employees. The coverage offered must meet a minimum value standard and must be “affordable” to the employee. If not, the employer will have to pay a penalty.

As you can see, the Individual Mandate and the Employer Mandate are linked.

Employers, or their health insurance carrier, will have to report to the IRS on a monthly basis several new data elements. These reporting requirements will begin in 2015 for most employers. The data that will be collected will include which employees and dependents are eligible for coverage, which employees and dependents are actually enrolled for coverage, information about the affordability of the plan and much more.

If your company is a “small employer” (fewer than 50 employees), it is likely that your insurance carrier will do the reporting on your behalf. Your carrier will likely have to reach out to your company over the next several months to request any required, but missing, data that they have not collected in the past. If your company is a “large employer” the data will be sent to the IRS either by your insurance carrier, by your company or some combination of the two. If you have an individual health plan, your insurance carrier will report your coverage information to the IRS.

All of this new data that the IRS will have will be utilized for three primary purposes. The first, of course, will be the enforcement of the Individual Mandate when you file your taxes. You will not be able to just say you had health insurance on your 1040 Form- the IRS will already have proof!

The second purpose for all of this new data will be for the enforcement of the “Employer Mandate”. Companies that have more than 50 employees that do not offer health insurance will have to pay a

penalty for not doing so. Depending on a company’s size, this requirement goes into effect in 2015 or 2016. Companies that do not offer coverage will have to pay a monthly penalty to IRS in the amount of \$167 for each employee (maximum of \$2,000 annually per employee).

The final primary purpose of all this new data will be in determining if an individual is eligible for a premium subsidy toward the purchase of an individual health plan through the Marketplace. To be eligible for a subsidy an individual must meet certain income requirements. In addition that individual cannot be eligible for “qualifying and affordable” coverage through an employer. If someone claims a subsidy, but the new IRS database shows that they were not technically eligible to do so, that person will have to pay back the entire subsidy.

Since the database will not be up and running this year it is likely that enforcement of the Individual Mandate and any subsidies received will be fairly lax. In future years the IRS will have the information to be the regular hard-nosed enforcers we’ve all come to know and love from this agency.

So, if you are an individual please be aware that enforcement of the Individual Mandate is coming. If you are an employer you need to be ready to provide any required information to your carrier or the IRS- it would be smart to get ready this year.

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