NEWS YOU CAN USE
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BUSINESS/ECONOMY

Top Ten Laws Affecting Companies in 2015

BESIDES THE prospects of more growth as the economy continues expanding, every New Year is also fraught with new requirements on businesses.

Staying on top of the major developments that may affect your operation is not always easy. New laws and regulations are varied and cover a lot of ground. To make it easier on you, we bring you the top laws and regulations that you may have to contend with starting in 2015.

1 Affordable Care Act phase I

Starting in 2015, firms with 100 or more full-time employees must offer health coverage to 70% of their employees. The alternative to not providing coverage is to pay a penalty that equates to about $2,000 per worker. Starting in 2016, they'll have to provide coverage to 95% of their staff.

Firms with between 50 and 100 full-time employees get a one-year reprieve from the the employer mandate.

2 Paid sick leave

In California, if you have staff, you will be required to offer them paid sick leave starting July 1.

Under the new law, once an employee works 30 days, an employer is required to provide them with at least one hour of sick leave for every 30 hours worked.

Employers may limit the use of paid sick leave to 24 hours, or three days, in each year of employment.

3 Anti-bullying training

Starting this year, employers that are required to provide sexual prevention training for supervisors must also include as a topic prevention of "abusive conduct."

Under California law, companies with 50 or more employees must provide two hours of anti-sexual harassment training and education to supervisors and managers every two years.

4 Liability for labor contractors

A new law requires employers to share, with labor contractors or temp agencies they use, liability for the payment of wages and failure to obtain valid workers' compensation coverage.

If the labor contractor defaults on its obligations, the employer must be responsbile for paying the wages directly and also cover them for workplace injuries.

5 Safety violation abatement

This new law allows employers to get a chance of reducing penalties for serious violations if they are able to abate the violation during the citation appeals process with Cal/OSHA.

Before, abatement credits were granted at the time of citation.

Employers were required to submit a signed statement under penalty of perjury that they had complied with the terms.

See 'Threshold' on page 2

CONTACT US

If you have a question about any of the articles in this newsletter or coverage questions, contact your broker at one of our offices.

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WORKERS' COMP

State Fund Dropping All of Its Group Programs

STATE COMPENSATION Insurance Fund of California will discontinue all of its group insurance programs. The state's largest insurer will start phasing out the programs and stop renewing group agreements in April 2015. At the same time, the applicable group discounts will be eliminated for all policies on April 1, 2015.

Groups have allowed like employers with good safety records to form essentially a safety cooperative.

Typically, an employer could join a group if it had an X-Mod that didn't exceed a certain threshold. In return, the employer would receive a discount on its premiums.

State Fund two years ago dropped its stand-alone safety groups and tightened the eligibility criteria for trade associations that participate in the group insurance programs.

At the time, State Fund had agreements with 84 stand-alone safety groups that accounted for 25,000 individual workers' comp policies.

Also, it had agreements with nearly 200 trade associations across nearly that many class codes, which represented a similar number of policies. Since the restructuring, the group insurance program has shrunk to just 35 trade association partners.

Groups have been advantageous for many reasons:

- The 6% discount, which can be combined with other discounts.
- Incentives to focus on workplace safety.
- Some groups have had access to additional claims-management services, such as alternative dispute resolution for claims.
- Employers in groups receive industry-focused safety services.

State Fund says it made its latest decision in light of its move in March 2013 to implement a tiered rating structure, which puts employers into three levels based on their claims and loss histories and X-Mods, with Tier A being for the ones with the best loss histories.

The tiers work as follows:

- Tier A – Employers receive a 38% reduction in premium
- Tier B – Employers receive a 4.9% reduction in premium
- Tier C – Employers receive a 25% increase in premium

State Fund says it performed an in-depth evaluation to understand how the group discount was working with tiered rating.

Originally, the company introduced the group insurance discount to recognize and reward employers whose loss history demonstrated a culture of safety. Trade associations who had agreements with State Fund received an administrative fee, which averaged approximately 4-6% of premium.

The study concluded that the tiered rating plan has the same effect on policyholders as the group discount, reflecting individual performance and recognizing employers with demonstrated safety records with appropriate pricing. ❖

DECONSTRUCTED: *The majority of State Fund's safety groups are in the building and construction trades.*

Continued from page 1

Workers' Comp Audit Threshold Raised to $13,000

6 New workers' comp audit threshold

Starting Jan. 1, all workers' comp policies with more than $13,000 in annual premium are subject to yearly payroll audits.

The change – from $10,000 in annual premium – means that fewer employers are likely to be audited this year.

7 Protections for interns, volunteers

This law adds unpaid interns and volunteers to the list of individuals who are protected from harassment under California's Fair Employment and Housing Act. It also extends to them protections from discrimination based on religious beliefs.

8 New Federal OSHA notification requirements

Starting Jan. 1, 2015, employers will be required to notify Federal OSHA of work-related fatalities within eight hours, and work-related inpatient hospitalizations, amputations or loss of an eye within 24 hours.

9 New cyber breach law

A new law requires businesses that maintain, own or license personally identifiable information about a California resident to offer identity theft prevention and mitigation services if that data is breached.

Those services must be offered for a minimum of 12 months at no cost to all persons affected. This adds to existing state law that requires businesses or individuals to notify any person whose data they were holding if that data may have been exposed by a cyber breach.

10 You can finally throw away your telegraph

Hopefully this doesn't put your firm in a bind, but employers will no longer be able to report serious workplace illnesses or injuries to Cal/OSHA by telegraph under a new law.

Starting Jan. 1, you can only report by phone or e-mail. If you haven't yet updated your systems, ditch the telegraph and get a phone or e-mail today! ❖

HEALTH INSURANCE

Your Affordable Care Act Guide for 2015

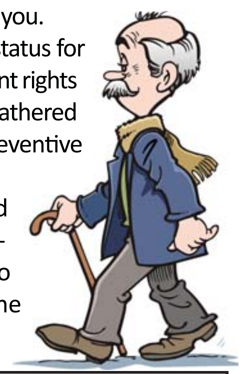
THE AFFORDABLE Care Act has made a number of significant changes to group health plans since the law was enacted over four years ago. Many of these key reforms became effective in 2014, including health plan design changes, increased wellness program incentives and reinsurance fees.

Additional reforms become effective in 2015 for employers sponsoring group health plans, with the most significant ACA development impacting businesses being the shared responsibility penalty for applicable large employers and related reporting requirements.

To prepare for the year ahead, employers should review upcoming requirements and develop a compliance strategy.

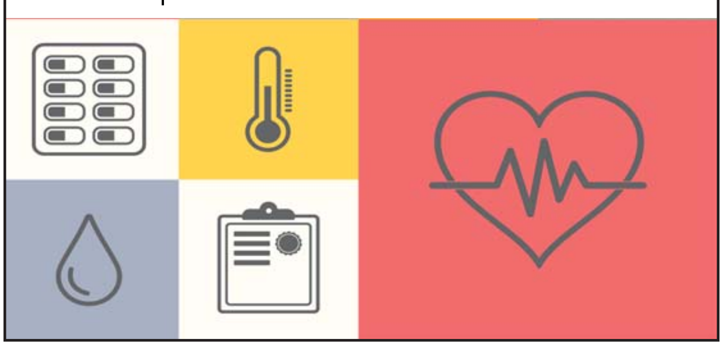
Review your plan's grandfathered status:

- If you have a grandfathered plan, determine whether it will maintain its status for this plan year. We can help you.
- If your plan will lose its grandfathered status for 2015, confirm that it has all of the additional patient rights and benefits required by the ACA for non-grandfathered plans. This includes, for example, coverage of preventive care without cost-sharing requirements.
- If your plan will keep its grandfathered status, continue to provide the Notice of Grandfathered Status in any plan materials provided to participants and beneficiaries that describe the benefits provided under the plan.



Cost-sharing

- Review your plan's out-of-pocket maximum to make sure it complies with the ACA's limits for the 2015 plan year ($6,600 for self-only coverage and $13,200 for family coverage).
- If you have a health savings account or compatible high-deductible health plan (HDHP), keep in mind that your plan's out-of-pocket maximum must be lower than the ACA's limit. For 2015, the out-of-pocket maximum limit for HDHPs is $6,450 for self-only coverage and $12,900 for family coverage.
- The ACA's annual deductible limit no longer applies to small insured health plans.



Employer shared responsibility

Starting in 2015, employers with 100 or more employees are largely responsible for providing coverage to their workers. The employer shared responsibility portion of the ACA was set to take effect January 2014, but was delayed until 2015 for the aforementioned employers, and until 2016

for those with between 50 and 99 workers.

Determine whether you qualify for the one-year delay for medium-sized "applicable large employers" (ALEs). If you are on the cusp of having 100 or more full-time employees, you will need to go through a counting regimen to determine if you quality for an exemption until 2016.

Flexible savings accounts

The maximum contribution employees will be able to make to their flexible spending accounts in 2015 has been set by the IRS at $2,550.

Affordability and minimum value

Under the ACA, an employer's health coverage is considered affordable if the employee's required contribution to the plan does not exceed 9.5% of their income for the taxable year.

You can measure affordability based on:

- The employee's W-2 wages;
- The employee's rate of pay; or
- The federal poverty level for a single individual.

Under the ACA, a plan provides minimum value if the plan's share of total allowed costs of benefits provided is at least 60%. The IRS and the Department of Health and Human Services provided the following three approaches for determining minimum value:

- MV calculator (provided on the HHS website);
- Design-based safe harbor checklists; and
- Actuarial certification.

Also any small group plan that meets any of the "metal levels" of coverage (that is, bronze, silver, gold or platinum) provides minimum value and qualifies.

Reporting

All applicable large employers, even medium-sized ALEs that qualify for the one-year delay from the pay-or-play rules, must report to the IRS under Section 6056 for 2015. The first returns will be due in 2016 for plans provided in 2015. For for 2014 filing is voluntary.

The IRS will use the information provided on the information return to administer the employer shared responsibility provisions. ❖

AFFORDABLE CARE ACT

Reimbursing Staff for Insurance Fraught with Pitfalls

EMPLOYERS THAT pay workers extra so they can secure their own insurance in the individual market could potentially be looking at the biggest fine in the Affordable Care Act's arsenal: $100 a day per employee.

If you do the math, that's $36,500 per employee over the course of a year, something that could easily bankrupt many small businesses. In fact, the ACA's market reform restrictions can penalize employers to this extent just for offering plans that simply reimburse employees for premiums paid by them for individual health insurance policies.

During the past decade, many smaller employers have tried to assist their workers in securing health coverage by reimbursing them for their individual health insurance policies. Employers opted for this type of arrangement particularly if the premium and administrative costs of offering a company health plan were out of reach.

While these types of arrangements were kosher in the past, for the most part, they are not any more.

Tax-free – and for that matter, even taxed – employer payment arrangements are considered group health plans subject to the ACA market reform restrictions, according to guidance issued by the IRS.

With a few limited exceptions, such plans fail to meet ACA requirements because, among other reasons, group health plans that are used to purchase coverage in the individual market cannot be integrated with individual market policies.

The Department of Labor states on its website:

"If an employer arrangement provides cash reimbursements to employees for the purchase of individual market policies, the arrangement will be considered for ACA purposes to be a plan established or maintained for the purpose of providing medical care to employees."

Breaching these rules can trigger the punitive penalty whether the arrangement is treated by the employer as tax-free or taxable.

Impact on S corporations

Another common arrangement that now contravenes the ACA is one that is common to many S corporations: that of reimbursing employees who own more than 2% of the company stock for their individual health insurance premium costs.

Under existing IRS rules, the reimbursements are treated as additional taxable wages that are not subject to the Social Security or Medicare taxes.

Qualifying more-than-2% shareholder employees can then deduct their premiums on their individual federal income tax returns under the special break for self-employed health insurance premiums. The company can deduct the reimbursements as compensation expenses.

However, using such an arrangement can trigger the punitive penalty. So if your organization has been using this type of set-up, you may want to think again.

The only exception

The restrictions as well as penalties do not apply to employer payment arrangements, including S corporation arrangements, that have only one participating employee. According to IRS Notice 2013-54, such arrangements can still be used to reimburse one employee for his or her individual health insurance premiums without triggering the $100 a day per employee penalty.

The takeaway

The use of premium reimbursement arrangements is now off-limits for the most part. You can be subject to penalties if you have more than one employee participating in the arrangement.

Employers cannot directly pay premiums for individual market policies on behalf of their employees without triggering the penalty.

Besides purchasing a small-group ACA-compliant plan for your staff, the other option is to increase employees' taxable wages to help them pay for individual health insurance policies.

That said, you cannot require that the funds be used for that purpose.

In these cases, the employer can claim compensation deductions for the additional wages, but the wages will be subject to federal income tax at the employee level and federal employment taxes at both the employee and employer levels.

Qualifying employees can claim itemized medical expense deductions for the premiums on their tax returns. ❖