Panel Discussion on Affordable Care Act Implementation
Association of Chief Human Resources Officers (ACHRO) 2015 Fall Institute | October 28, 2015
Presented By: Heather DeBlanc, LCW, Diane Clerou, Samerah Campbell, Frances Garza, and Glynna Billings, State Center CCD and Joe Simoneschi and Julianna Mosier, Pasadena CCD

ACA Legal Issues

• Large Employer Mandate
  – Defining full-time employees
    • Capture of Hours/ Tracking
  – Affordability
  – Negotiation
• ACA Reporting
• Upcoming ACA Issues

Large Employer Mandate

• Effective January 1, 2015
• Applicable Large Employers
• Trigger: FT employee purchases subsidized coverage in exchange

(Penalty A) Employer does not offer “minimum essential coverage” to “substantially all” FT employees & dependents; or

(Penalty B) Coverage offered is “unaffordable” or doesn’t provide “minimum value”
Determining Full-Time Employees (2 options)

- Monthly Measurement Method
  - Average 30 hours of service per week in any given month (130 hours per month if counting each calendar day)
- Look Back Measurement Method Safe Harbor
  - Average 30 hours of service per week over a Standard Measurement Period (up to 12 mo)
- Apply same method to all ee in reasonable category:
  - Represented v. Unrepresented
  - Each Bargaining Unit
  - Salaried v. Hourly

Challenges with Hours of Service

- Adjunct faculty
- Employees receiving stipends
- Student workers
- Coaches
- Retired Annuitants

“Hours of Service” Under the ACA

- Each hour employee is paid or entitled to payment for performance of duties; &
- Each hour employee is paid or entitled to pay during time for which no duties are performed (i.e. vacation, holiday, illness, incapacity, military duty, leave, jury duty, layoff)
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“Reasonable Method” of Crediting Adjunct Hours

• IRS example:
  • 2.25 hours of service per week for each hour of teaching or classroom time to account for prep & grading; **PLUS**
  • 1.00 hour of service per week for each additional hour (such as required office hours or required attendance at faculty meetings)

Retired Annuitants

• 960 hours in a fiscal year restriction
  – Interim appointment: specialized skill or preventing stoppage during emergency
• Not allowed to offer benefits
• CalPERS recommendation:
  – Develop policies to limit hours of service
    • Less than 130 per month

Affordability Safe Harbors

Employee premium contribution toward lowest cost self-only plan is no more than 9.5% of:

1. Form W-2 (use Box 1 wages)
2. Rate of Pay (lowest hourly rate x 130 or monthly salary)
3. Federal Poverty Line (monthly FPL)
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Negotiating Employer Mandate

• Not really a legal “mandate”
  – Health benefits negotiable topic
  – Not “required” to offer affordable coverage
• Using Employer Mandate to Determine Coverage Eligibility?
  – Monthly Measurement Method
  – Look Back Measurement Method Safe Harbor
  – Determining Affordability

ACA Reporting

<table>
<thead>
<tr>
<th>Applicable Large Employer Offering Fully-Insured Coverage</th>
<th>Applicable Large Employer Sponsoring Self-Insured Coverage</th>
<th>Small Employer (non-ALE) Sponsoring Self-Insured Coverage</th>
<th>Small Employer Offering Fully Insured Health Plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>1094-C (entire form) and 1095-C (except Part III)</td>
<td>1094-C (entire form) and 1095-C (entire form)</td>
<td>1094-B and 1095-B</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

What Else Does ACA Cover?

• 2018 Excise Tax
• Group Health Plan Mandates
• Non-Discrimination Rules
Discussion Points

- Biggest Challenges
- Budgetary Impacts
- Potential Solutions

ACA Legal Issues

- Large Employer Mandate
  - Defining full-time employees
    - Capture of Hours/Tracking
  - Affordability
  - Negotiation
- ACA Reporting
- “Cadillac” Tax
- Group Health Plan Mandates
- Non-Discrimination

Thank You

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