

COMPANIES *QUICK BENEFIT BLAST...*

“Some Agents Just Deliver Renewals, We Deliver Solutions.”

August 22, 2012

Dear Clients and Friends,

We hope our attached fourth (4th), and *“more user-friendly”*, approximation of Obama Care compliance will give us all a better grasp of what must be accomplished by 2014.

(Please delete the previous update of 8/7/12.)

Thanks to a day long seminar by the International Foundation of Employee Benefit Plans a lot has been made clear. The seminar helped to clarify actions dependent on FT vs. FTE calculations (see attached guidance). We have not dealt with the ins and outs of grandfathering, as for most the status will be gone in 2014.

Contact Dave or Jon Trapp at 608-784-5433 or armitage@armitageinonline.com with any questions.

A) HEALTH CARE REFORM – Revised/Updated Health Care Reform Compliance Timeline.
<http://armitageinonline.com/wp-content/uploads/2012/08/Health-Care-Reform-Compliance-Timeline.Revised1.pdf>

This is a good compliance starting point. - See Attached Obama Care Compliance Issues That Need Guidance and Discussion of FT and FTE Relevance.

B) NON COMPLIANCE ENFORCEMENT POSSIBILITY UNDER PPACA

1. “Good Faith” effort to implement PPACA will avoid enforcement. (Your timetable must be doable per your broker and other providers). Set it up to move toward compliance.
2. Excise Tax for Mandate Violations IRS Code 4980D - \$100/day/person for period of noncompliance. There are 30 days to comply with no penalty.
3. If coverage’s are not implemented an employee may sue in Civil Court and also via the Department of Labor.
4. Under the Whistle Blower Provision of PPACA, employees can file a “complaint” with OSHA citing plan fiduciaries (for unwillingness to provide mandated benefits).
 - Besides the usual ERISA penalty of just paying back at present benefit levels, a special damages award can be made.
5. “Workforce Realignment” (reducing hours to affect eligibility penalties) is prohibited under ERISA; “ERISA prohibits interfering with an individual’s right to benefits”.

C) REVIEW YOUR FIDUCIARY LIABILITY COVERAGE (GENERALLY PART OF YOUR D&O LIABILITY PACKAGE)

- 1. Who is a covered insured?**
- 2. What is your defense coverage and liability limit if sued by a government agency?**
- 3. Get your P&C agent to show how your GL, EBL, D&O, EPI, ERISA Liability and Fiduciary coverages fit together.**
- 4. Employer and employee communications, especially about benefits, will be sensitive in 2013 and 2014, especially in Wisconsin. Review them well and give references.**

D) List of 100% Covered Preventive Services for Women Effective 8/1/12 (or next plan renewal) Attached.

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What responses to ACA are defined by FT or FTE definitions of an employee?

- Based on IFEBP 8/16/12 Seminar

A. Using a FT 30 hours + Definition of Employee Applies In:

- 1) W-2 Reporting
- 2) Quality Care Report
- 3) All other Assessments and Taxes in 2014 to 2018
- 4) Auto-Enrollment in 2014
- 5) Affordability Tests for Large Groups (50+)
 - Employee cost must be less than 9.5% of their single income (need guidance) for at least the 60% Actuarial Value Plan. (No penalties or tests for small groups.)

B. Using a FTE Definition in Employee Applies In:

- 1) Definition of a small or large group size (50+) for offering coverage tests.
- 2) Deductible limit of \$2,000 Single/\$4,000 Family and maximum out of pocket equal to maximum HSA out of pocket for small groups less than 50 FTE.
- 3) 2014 – Small Group redefined to 100 FTE
- 4) For \$2,000 per FTE with no insurance plan penalty.
- 5) For \$3,000 per exchange qualified employee and for \$2,000 FTE employee not covered (less the first 30 employees) penalty.



Companies

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2012-2014: ObamaCare Compliance Issues Requiring Guidance

A. Problem of Group Size

2014: Small Group changes from 50 FTE to 100 FTE

B. Problem of FT or FTE – When is each one used and for what?

- See attached. There will be more guidance.

C. Employer quality care filing due after 3/30/12

- NO GUIDANCE

D. Employer complete Exchange Notice to all Employees in Late 2013

- NO GUIDANCE

E. 200+ Open Enrollment with no limits on “Essential Benefits” in 2014

- NO GUIDANCE

F. List of Minimum Essential Benefits (MEB/MEC) – NO COMPLETE GUIDANCE

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance use disorder services, including behavioral health treatment
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness and chronic disease management
- Pediatric services, including oral and vision care.

G. No Definition of what Exchanges will have available as “Qualified Health Plans”

- NO GUIDANCE

H. No governance or operational funding of exchanges has been addressed and will vary state by state (another big unknown cost).

- NO GUIDANCE

22 Covered Preventive Services for Women, Including Pregnant Women

The eight new prevention-related health services marked with an asterisk (*) must be covered with no cost-sharing in plan years starting on or after August 1, 2012.

1. **Anemia** screening on a routine basis for pregnant women
2. **Bacteriuria** urinary tract or other infection screening for pregnant women
3. **BRCA** counseling about genetic testing for women at higher risk
4. **Breast Cancer Mammography** screenings every 1 to 2 years for women over 40
5. **Breast Cancer Chemoprevention** counseling for women at higher risk
6. **Breastfeeding** comprehensive support and counseling from trained providers, as well as access to breastfeeding supplies, for pregnant and nursing women*
7. **Cervical Cancer** screening for sexually active women
8. **Chlamydia Infection** screening for younger women and other women at higher risk
9. **Contraception:** Food and Drug Administration-approved contraceptive methods, sterilization procedures, and patient education and counseling, not including abortifacient drugs*
10. **Domestic and interpersonal violence** screening and counseling for all women*
11. **Folic Acid** supplements for women who may become pregnant
12. **Gestational diabetes** screening for women 24 to 28 weeks pregnant and those at high risk of developing gestational diabetes*
13. **Gonorrhea** screening for all women at higher risk
14. **Hepatitis B** screening for pregnant women at their first prenatal visit
15. **Human Immunodeficiency Virus (HIV)** screening and counseling for sexually active women*
16. **Human Papillomavirus (HPV) DNA Test:** high risk HPV DNA testing every three years for women with normal cytology results who are 30 or older*
17. **Osteoporosis** screening for women over age 60 depending on risk factors
18. **Rh Incompatibility** screening for all pregnant women and follow-up testing for women at higher risk
19. **Tobacco Use** screening and interventions for all women, and expanded counseling for pregnant tobacco users
20. **Sexually Transmitted Infections (STI)** counseling for sexually active women*
21. **Syphilis** screening for all pregnant women or other women at increased risk
22. **Well-woman visits** to obtain recommended preventive services for women under 65*

Learn more about Affordable Care Act Rules on Expanding Access to Preventive Services for Women. (Effective August 1, 2012)