

COMPANIES *QUICK BENEFIT BLAST...*

“We Deliver Solutions, Not Just Renewals”

January 15, 2013

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.

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.**

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